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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 Bulgaria

First evaluation round

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Table of contents

Preamble 5

Executive summary 7

I. Introduction 9

II. National framework in the field of action against trafficking in human beings in Bulgaria 10

1. Overview of the current situation and trends in the area of trafficking in human beings in Bulgaria 10
2. Overview of the legal and policy framework in the field of action against trafficking in human beings 10
   a. Legal framework 10
   b. National Programmes for Prevention and Combating of THB 12
3. Overview of the institutional framework for action against trafficking in human beings 12
   a. National Commission for Combating Trafficking in Human Beings and local commissions 12
   b. State Agency for Child Protection 14
   c. National Mechanism for Referral and Support of Trafficked Persons in Bulgaria 14
   d. Co-ordination Mechanism for Referral, Care and Protection of Repatriated Unaccompanied Minors 14
   e. Ministry of the Interior 15
   f. NGOs 15

III. Implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Bulgaria 16

1. Integration of the core concepts and definitions contained in the Convention in the internal law 16
   a. Human rights-based approach to action against trafficking in human beings 16
   b. Definitions of "trafficking in human beings" and "victim of THB" in Bulgarian law 17
      i. Definition of "trafficking in human beings" 17
      ii. Definition of "victim of THB" 20
   c. Comprehensive approach to THB, co-ordination of all actors and actions, and 20
      international co-operation 20
      i. Comprehensive approach 20
      ii. Co-ordination 23
      iii. Training of relevant professionals 24
      iv. Data collection and research 25
      v. International co-operation 27
2. Implementation by Bulgaria of measures aimed to prevent trafficking in human beings 29
   a. Awareness raising and education 29
   b. Social, economic and other initiatives for groups vulnerable to THB 31
   c. Measures to discourage demand 32
   d. Border measures to prevent THB and measures to enable legal migration 33
   e. Measures to ensure the quality, security and integrity of travel and identity documents 34
3. Implementation by Bulgaria of measures to protect and promote the rights of victims of trafficking in human beings 35
   a. Identification of victims of THB 35
   b. Assistance to victims 37
   c. Recovery and reflection period 39

d. Residence permits....40
e. Compensation and legal redress....41
f. Repatriation and return of victims....42
4. Implementation by Bulgaria of measures concerning substantive criminal law, investigation, prosecution and procedural law....43
a. Substantive criminal law....43
b. Non-punishment of victims of THB....45
c. Investigation, prosecution and procedural law....46
5. Concluding remarks....49

Appendix I: List of GRETA's proposals....51

Appendix II: List of public bodies and intergovernmental and non-governmental organisations with which GRETA held consultations....56

Government's comments....57

Preamble

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

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

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

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

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

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

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

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

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

GRETA is composed of 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

The Bulgarian authorities have taken a number of important steps to prevent and combat trafficking in human beings. The national legal framework in the field of action against trafficking in human beings has evolved in the light of the country's international commitments as well as the situation and trends of trafficking in Bulgaria. A specific law on combating trafficking in human beings was adopted in 2003, and in 2009 the use of services of victims of trafficking was criminalised and the penalties for trafficking were increased. The institutional framework put in place, at national and local level, aims to bring together in a co-ordinated effort all relevant actors, including non-governmental organisations. The setting up in November 2010 of a national mechanism for referral and support of trafficked persons strengthens the co-operative framework between state actors and civil society in the identification of trafficked persons and their protection.

That said, the national referral mechanism remains to be backed up with necessary funding. Although the budget allocated by the State to the National Commission for Combating Trafficking in Human Beings has been increased, there is still a considerable reliance on external financing for many activities, including prevention, research and provision of assistance to victims of trafficking. GRETA considers that the Bulgarian authorities should make a further investment to ensure that the national and local commissions for combating trafficking in human beings can effectively carry out the full range of tasks within their mandate.

Given that Bulgaria is predominantly a country of origin of victims of trafficking, prevention has been a strong aspect of the action taken by the Bulgarian authorities, in partnership with non-governmental and international organisations. Considerable work has been done on the awareness-raising side as well as in the areas of training and international co-operation. A good practice is the appointment of "labour attaches" in countries where Bulgarian nationals seek employment. However, GRETA urges the Bulgarian authorities to strengthen the aspect of prevention through social and economic empowerment measures for groups vulnerable to THB. There is clearly a need for a comprehensive, co-ordinated and adapted approach towards the problems in the Roma community, aiming at improving their integration and access to education, health care and social assistance as an ultimate prevention measure against trafficking in human beings. GRETA also urges the authorities to take steps to secure the registration of all persons from socially vulnerable groups at birth and for social services, both as a prevention measure and in order to avoid re-trafficking

While acknowledging the efforts made by the Bulgarian authorities to improve the identification of victims of trafficking through the setting up of a national referral mechanism, GRETA concludes that the current identification system is not sufficiently effective as it risks to leave out those who do not want to co-operate with the authorities and take part in judicial proceedings against the alleged traffickers. Further, GRETA considers that the Bulgarian authorities should pay more attention to the identification of persons detained as irregular migrants.

As regards assistance measures for victims of trafficking, GRETA urges the Bulgarian authorities to ensure that all the measures provided for in law are guaranteed in practice. Even when assistance is delegated to non-governmental organisations, the state has an obligation to provide adequate financing and to ensure the quality of the services delivered. In this context, GRETA stresses the need to set up a sufficient number of shelters for victims of trafficking in order to meet the needs for accommodating such victims, and to ensure that the conditions provided in the shelters are adequate. It is also necessary to provide victims of trafficking with vocational training and access to the labour market with a view to improving their chances to reintegrate in society and to avoid re-trafficking.

When it comes to children, the setting up of a co-ordination mechanism for referral, care and protection of repatriated unaccompanied minors is a welcome development. However, GRETA considers that there is a need to improve the system for providing assistance to child victims of trafficking, both in terms of accommodation in crisis centres and as regards medium and long-term support programmes tailored to the needs of the children.

Concerning the compensation of victims of trafficking, despite the existence of legal possibilities, this aspect remains largely unexplored. GRETA urges the Bulgarian authorities to increase their efforts to provide information to victims of trafficking about their right to compensation and the ways to access it, and to ensure that victims have effective access to legal aid in this respect.

Most of the substantive criminal law provisions of the Convention are adequately reflected in Bulgarian law. However, GRETA urges the Bulgarian authorities to take legislative measures allowing for the possibility of not imposing penalties on victims of THB for their involvement in unlawful activities to the extent that they were compelled to do so. As regards the confiscation of assets acquired through the trafficking in human beings, discussions are underway about the way in which the confiscated assets are to be used, in particular how a part of them can be directed to the victims.

Regarding the investigation of cases of trafficking in human beings, welcome efforts have been made in the area of international co-operation. That said, GRETA urges the Bulgarian authorities to step up proactive investigations of potential cases in sectors such as entertainment, tourism and construction. Further, GRETA considers that the Bulgarian authorities should prioritise the identification of gaps in the investigation procedure and the presentation of cases in court, *inter alia* with a view to ensuring an expeditious trail.

Finally, GRETA also considers that the Bulgarian authorities should make full use of the available measures to protect victims and to prevent intimidation during the investigation and during and after the court proceedings. In this context, the Bulgarian authorities should take additional measures to ensure that victims of THB are adequately informed and assisted during the pre-trial and court proceedings.

I. Introduction

1. Bulgaria deposited the instrument of ratification of the Council of Europe Convention on Action against Trafficking in Human Beings ("the Convention") on 17 April 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, Bulgaria 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 Bulgaria 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 Bulgarian authorities on 10 February 2010. The deadline for submitting the reply to the questionnaire was 1 September 2010. The Bulgarian authorities submitted their reply on 30 August 2010[1].

4. In preparation of the present report, GRETA used the reply to the questionnaire by the Bulgarian authorities, information received from non-governmental organisations (NGOs) in response to requests sent by GRETA, and other information collected by GRETA. In addition, a country visit to Bulgaria took place from 21 to 24 February 2011. It was carried out by a delegation composed of:

- Mr Vladimir Gilca, member of GRETA
- Ms Hanne Sophie Greve, member of GRETA
- Ms Petya Nestorova, Executive Secretary of the Council of Europe Convention on Action against Trafficking in Human Beings.

5. During the country visit, the GRETA delegation held meetings with the Deputy Prime Minister and Chair of the National Commission for Combating Trafficking in Human Beings, Mr Tsvetan Tsvetanov, and senior officials of relevant ministries and other public institutions (see Appendix II). Further, it met the Ombudsman of Bulgaria and members of his office. In addition, the delegation met representatives of the municipal authorities in Varna, including members of the Local Commission for Combating Trafficking in Human Beings and staff of the local information and training centre. These meetings took place in a spirit of close co-operation.

6. The GRETA delegation held separate meetings with representatives of the International Organisation for Migration (IOM) and members of NGOs working in the area of action against trafficking in human beings (THB). GRETA is grateful for the information that they provided.

7. Further, in the context of the country visit, the GRETA delegation visited crisis centres accommodating victims of trafficking in Sofia and Varna.

8. GRETA wishes to place on record the valuable assistance provided by the contact person appointed by the Bulgarian authorities, Ms Denitsa Boeva, Chief Expert at the National Commission for Combating Trafficking in Human Beings.

9. The draft version of the present report was adopted by GRETA at its 10th meeting (21-24 June 2011) and was submitted to the Bulgarian authorities on 6 July 2011 for comments. The authorities' comments were received on 4 August 2011 and were taken into account by GRETA when drawing up its final evaluation report, which was adopted at GRETA's 11th meeting (20-23 September 2011).

[1] The Bulgarian authorities have requested the publication of their reply to the questionnaire, which can be found at: http://www.coe.int/t/dghl/monitoring/trafficking/Source/GRETA_2011_2_R_Q_BGR_en.pdf

II. National framework in the field of action against trafficking in human beings in Bulgaria

1. Overview of the current situation and trends in the area of trafficking in human beings in Bulgaria

10. According to the Bulgarian authorities, Bulgaria is primarily a country of origin for trafficked persons, the overwhelming majority of identified victims being Bulgarian nationals (all 283 victims identified in 2008; 316 out of 319 victims identified in 2009). Some 40% of the victims of trafficking identified during the period 2008-2009 were subject to national trafficking, i.e. within Bulgaria. The main form of exploitation has been forced prostitution, both abroad and within the country. There have also been cases of labour exploitation (80 in 2008; 51 in 2009), servitude (10 in 2008; 3 in 2008), and pregnant women being trafficked abroad in order to have their newborn babies sold (19 in 2009). Women have constituted the majority of identified victims (202 in 2008; 237 in 2009). As regards child victims of trafficking, the number of cases identified in 2008 and 2009 were respectively 71 and 57.

11. Statistical information provided by the Supreme Cassation Prosecutor's Office in respect of 2010 shows that the number of identified victims of trafficking has been on the rise (432 in 2010, of whom 327 women and 70 children). Similar to the previous two years, sexual exploitation has remained the prevailing form of exploitation. In addition, there were six identified victims of trafficking for the purpose of removal of organs and six cases of pregnant women trafficked in order to have their babies sold.

12. The Bulgarian authorities acknowledge that Bulgaria is also to some extent a country of transit and destination for trafficked persons, although the official statistics do not reveal the real scale of the problem (only three foreign victims of trafficking were identified in 2008-2009).

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

a. Legal framework

13. At the international level, in addition to the Council of Europe Anti-Trafficking Convention, Bulgaria is Party to the United Nations (UN) Convention against Transnational Organised Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (both of which it ratified in 2001). Bulgaria is also Party to a number of other international treaties relevant to action against THB, in particular the UN Convention on the Rights of the Child and its Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography; the European Convention on Mutual Assistance in Criminal Matters and its Additional Protocols; the European Convention on Extradition; the European Convention on the Transfer of Proceedings in Criminal Matters; and the Council of Europe Convention on Cybercrime.

14. Since joining the European Union (EU) on 1 January 2007, Bulgaria is also bound by the EU legislation in the field of combating THB, in particular Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims; Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, and who co-operate with the competent authorities; Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims; and Framework Decision 2001/220/JHA of 15 March 2001 of the Council of the European Union on the standing of victims in criminal proceedings.

15. The Bulgarian national legal framework in the field of action against trafficking in human beings has evolved since the early 2000s in the light of the country's international commitments. In 2002, provisions criminalising trafficking in human beings were introduced in the Criminal Code (CC), namely Section IX "Trafficking in People" of Chapter II "Crimes against the Person" (Articles 159a to 159c). The anti-trafficking provisions of the CC were amended and supplemented in 2006 and subsequently in April 2009 when the use of services of a victim of trafficking was criminalised (new Article 159c) and the penalties for THB were increased.

16. In June 2001, an inter-ministerial working group was set up to draft a comprehensive law to address human trafficking. The Law on Combating Trafficking in Human Beings (hereinafter "the Anti-Trafficking Law") was adopted on 7 May 2003 and entered into force on 1 January 2004. The law defines the legal obligations of the different state authorities involved in combating THB and the relations between them, as well as promotes co-operation with NGOs. It also provides for the setting up of a national commission and local commissions for combating THB, and creates the legal mechanism for the development of an annual national programme which is to be approved by the Council of Ministers. Further, the law contains a variety of measures to prevent THB and to protect and assist its victims, including the setting up of shelters for temporary accommodation of victims of trafficking and centres for their protection and support, and the granting of special protection status to victims for the time of the criminal proceedings.

17. A number of other internal legal acts have relevance to action against THB and the protection of trafficking victims, in particular:

- the 2006 Code of Criminal Procedure (CCP), *inter alia* as regards the institution of criminal proceedings, the rights of victims in criminal proceedings, the protection of witnesses, and criminal proceedings involving international co-operation;
- the 2004 Law on the Protection of Persons at Risk in Relation to Criminal Proceedings, which provides for special protection measures for participants in criminal proceedings related to THB;
- the 2006 Law on Assistance and Financial Compensation to Crime Victims, pursuant to which THB is one of the seven most serious crimes against the person for which the state has the obligation to support and compensate the victims;
- the 2000 Law on Child Protection, which contains provisions for the protection of children at risk and the rights of children in administrative and judicial proceedings;
- the 1998 Law on Foreigners in Bulgaria (with subsequent amendments), which contains provisions regulating the issuing of residence permits to victims of trafficking;
- the 1998 Law on Bulgarian Identity Documents (with subsequent amendments), which provides for taking away the identity documents of children about whom there is evidence of past involvement into trafficking.

18. As regards secondary legislation, particular mention should be made of the 2004 Regulation governing the shelters for temporary accommodation and centres for protection and assistance of victims of human trafficking, which sets out the assistance measures provided to victims of THB, and the 2004 Regulation of the organisation and activity of the National Commission for Combating Trafficking in Human Beings. Further, as regards children, the 2003 Implementing Regulation of the Law on Child Protection and the Code of Conduct for the Prevention of Trafficking and Sexual Exploitation of Children in Tourism are of particular relevance.

b. National Programmes for Prevention and Combating of THB

19. Pursuant to Article 7(3) of the Anti-Trafficking Law, the National Commission for Combating Trafficking in Human Beings (NCCTHB) develops and administers on an annual basis the implementation of the National Programme for Prevention and Counteraction of Trafficking in Human Beings and Protection of Victims (hereinafter "National Programme"). The National Programme is approved by the Council of Ministers and encompasses the main activities and responsible institutions with regard to the prevention of human trafficking, protection, social assistance and reintegration of its victims as well as measures necessary for the criminal prosecution of persons who commit trafficking.

20. The first National Programme was developed in 2005. It envisaged prevention activities based on raising awareness among children, parents, teachers, social workers, medical professionals, police officers, prosecutors, judges, consular officers and other relevant officials. The programme also contained measures for the structural and administrative formation of the NCCTHB and the local commissions, co-operation with NGOs, and development of mechanisms for co-operation between all responsible ministries and agencies as well as bilateral and multinational co-operation for ensuring the protection of child and adult victims of trafficking. The National Programmes adopted in the ensuing years followed a similar approach.

21. The implementation of each National Programmes has been the subject of an annual report drawn up by the NCCTHB and published on its website. Although the full report on the implementation of the 2010 National Programme was not available at the time of drawing up GRETA's report, the Bulgarian authorities have provided GRETA with information on the activities that have been implemented. These activities will be reflected in the relevant parts of this report.

22. The most recent National Programme was adopted by the NCCTHB in February 2011 and was approved by the Council of Ministers on 4 May 2011. It has been drawn up with the expert support of the permanent working group set up at the NCCTHB (see paragraph 29). The 2011 National Programme puts the emphasis on local policies and efforts for combating THB and on prevention work among adolescents, their parents and teachers, and ethnic minorities, with a view to combating THB for the purpose of labour and sexual exploitation, as well as child trafficking. Similar to previous annual programmes, the 2011 National Programme lists concrete activities in six main areas: (i) institutional and organisational measures; (ii) prevention; (iii) training and qualification of staff; (iv) protection, rehabilitation and reintegration of victims of THB; (v) international co-operation; (vi) legislative measures (see paragraph 69 for further information on the National Programme).

23. The activities envisaged in the 2011 National Programme are to be funded through the budget of the NCCTHB, the budgets of the responsible ministries, services and municipalities, as well as through projects and programmes financed by international organisations. There is no mention in the National Programme of the exact amount of money allocated to each activity. The same has been the case for all previous annual programmes, the funding of activities depending to a large extent on external financing (see paragraph 75).

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

a. National Commission for Combating Trafficking in Human Beings and local commissions

24. The NCCTHB was set up in 2004 by virtue of the Anti-Trafficking Law. It is an inter-agency structure subordinated to the Council of Ministers, which determines and administers the implementation of the national policy and strategy in the area of combating THB and co-ordinates the interaction between the relevant institutions and organisations.

25. The composition of the NCCTHB as defined by the Anti-Trafficking Law is as follows:
Chair: Deputy Prime Minister
Members:

- Deputy Minister of Foreign Affairs
- Deputy Minister of Labour and Social Affairs
- Deputy Minister of the Interior
- Deputy Minister of Justice
- Deputy Minister of Health
- Deputy Minister of Education, Youth and Science
- Deputy Chair of the State Agency of National Security
- Deputy Chair of the State Agency for Child Protection
- Deputy Chair of the Central Commission for Combating Juvenile Delinquency
- Deputy Prosecutor General
- Deputy Chair of the Supreme Court of Cassation
- Deputy Director of the National Investigation Service.

26. The NCCTHB sets up annual National Programmes and publishes reports concerning their implementation, which are presented to the Council of Ministers for approval. It is also responsible for promoting research, analysis and statistical reporting of human trafficking data, organising training programmes and awareness-raising campaigns, and contributing to international co-operation with the aim to combating trafficking in human beings, including through participating in projects funded by the EU, the United States Agency for International Development (USAID), IOM and various foreign Governments, as well as supporting the setting up of Joint Investigation Teams (JITs).

27. The NCCTHB has an office in Sofia and a permanent Secretariat employing nine persons. The state-allocated budget of the NCCTHB in 2011 is 296 000 BGN, i.e. approximately 151 340 Euros, about one-third of which is for staff salaries and some 50% (70 967 Euros) for financing various activities (prevention campaigns, training, the running of three information centres and two state shelters for victims of trafficking, etc.). As of July 2011, the budget of the NCCTHB has been increased by 60 000 BGN (approximately 30 677 Euros) for the implementation of activities and specifically for the protection of victims.

28. At least once a year, the NCCTHB holds a general meeting in the above-mentioned composition in order to adopt the annual National Programme and the report on the implementation of the programme for the previous year. In practice, general meetings of the NCCTHB have been held on average twice a year. The meetings of the NCCTHB can be attended by representatives of NGOs working in the area of action against THB as well as by representatives of relevant international organisations which have the status of observers (see paragraph 82).

29. In addition, since 2007, a working group composed of some 22 experts from relevant ministries, agencies, international organisations and NGOs has been set up under the NCCTHB for closer expert discussions and contact over everyday issues. This working group meets at least once a month. In 2009 and 2010, the working group met several times in an enlarged composition in order to develop a National Mechanism for Referral and Support of Trafficked Persons (see paragraph 33).

30. In addition to the NCCTHB, the Anti-Trafficking Law provides for the setting up of local commissions for combating THB, which are chaired by a deputy mayor and include representatives of the municipal authorities in the areas of education, child protection, health care, social policy and law enforcement, as well as NGOs representatives. Since 2008, such local commissions have been set up in seven of the country's 28 regions (Burgas, Montana, Pazardzhik, Plovdiv, Rousse, Sliven and Varna). One more local commission is to be set up in 2011. The work of the local commissions is supervised by the NCCTHB, which funds their activities, with some contribution from the respective municipality.

b. State Agency for Child Protection

31. Since its establishment on 1 January 2001 by the Council of Ministers, the State Agency for Child Protection (SACP) has been involved in the fight against trafficking in children, which is one of the main priorities of its work. In 2003, the Bulgarian Government adopted a National Plan against Sexual Exploitation of Children for the period 2003-2005. An inter-governmental group involving all relevant ministries and NGOs was established at the National Council for Child Protection to co-ordinate the activities of this action plan. The SACP and the Ministry of the Interior were appointed as national co-ordinators for its implementation.

32. At present, the SACP has a co-ordinating role in the implementation of national measures against trafficking in children. The activities of the SACP include participation in the development of legal changes and programmes for prevention as well as practical work for providing assistance in the context of the repatriation and reintegration of children who are victims of trafficking.

c. National Mechanism for Referral and Support of Trafficked Persons in Bulgaria

33. The National Mechanism for Referral and Support of Trafficked Persons (NRM) was set up on 23 November 2010, after several years of preparatory work, following an initiative by the NGO Animus/La Strada in 2008. The project for the setting up of a NRM in Bulgaria was financed by the MATRA programme of the Dutch Ministry of Foreign Affairs and received the support of the NCCTHB. The NRM is a co-operative framework through which state actors fulfil their obligations to protect and promote the human rights of trafficked persons, in partnership with civil society. It describes the roles and procedures of all stakeholders and provides concrete measures and steps for the identification and referral of trafficked persons.

34. At the time of GRETA's country visit to Bulgaria, the NRM was in the process of being approved by the ministries involved, but its existence was already being publicised by means of brochures and books in Bulgarian and English. At the time of drawing up GRETA's report, the NRM remained to be backed up with necessary funding from the state budget (see paragraph 170).

d. Co-ordination Mechanism for Referral, Care and Protection of Repatriated Unaccompanied Minors

35. The Co-ordination Mechanism for Referral, Care and Protection of Repatriated Unaccompanied Minors was set up as part of the above-mentioned National Action Plan against Commercial Sexual Exploitation of Children (2003-2005) and its basic principles were included in the first National Programme for 2005. It sets up a system for inter-institutional referral of cases and creates obligations for co-operation between stakeholders involved in the fight against trafficking in children. In implementing the Co-ordination Mechanism, stakeholders are guided by the principles of the best interest of the child, inter-institutional information exchange and collaboration, multidisciplinary approach at a national and local level, flexibility in the decision making process, setting of long-term goals, and case ethics.

36. In 2010, an inter-governmental working group within the SACP developed a project for updating the Co-ordination Mechanism. The updated document was signed in December 2010 by the Minister of the Interior, the Minister of Labour and Social Policy, the Minister of Foreign Affairs, the Chair of the SACP, and the Executive Director of the State Agency for Social Assistance. The new aspects of the Co-ordination Mechanism concern the expansion of the range of the agencies at central and local levels, the options for receiving information about unaccompanied children and children victims of human trafficking referred from abroad, the stages of referral and assistance, and the description of the powers of all institutions involved. The co-ordination of the implementation of the mechanism is executed by the Minister of the Interior and the Chair of the SACP.

e. Ministry of the Interior

37. Since 1999, a specialised unit "Trafficking in Human Beings" has operated within the Ministry of the Interior, currently under the Chief Directorate for Combating Organised Crime. The unit employs operational officers, analysts and technical staff. A senior officer from this unit participates in the above-mentioned working group at the NCCTHB and provides training to police officers at the Academy of the Ministry of the Interior. Further, an officer from the unit is a member of the MIRAGE group established within the Southeast European Co-operative Initiative (SECI Centre) with the purpose of counteracting THB and illegal migration. The unit is also responsible for the planning of JITs (see paragraph 97), together with the Prosecutor's Office and foreign partners.

38. At a regional level, all 28 territorial units of the Chief Directorate for Combating Organised Crime employ an operative officer whose priority task is to deal with cases of THB. In some of the territorial units, due to identified necessity, there are groups of officers dealing with THB.

39. The Chief Directorate of Border Police of the Ministry of the Interior also has a specialised team dealing with human trafficking, which is part of the Unit for Counteracting Cross-border Crimes.

40. The Migration Directorate of the Ministry of the Interior is responsible for the identification of trafficked persons among foreign citizens residing in the territory of Bulgaria and for the collection of information and reporting of cases of trafficking to the Prosecutor's Office.

f. NGOs

41. NGOs have played a key role in the field of action against THB in Bulgaria over the years, through carrying out awareness-raising activities, training and research on THB, providing assistance to victims, and participating in international projects. Some NGOs have been active in this area since the mid-1990s, prior to the setting up of the NCCTHB. For example, the NGO Animus Association/La Strada has been implementing projects aimed at prevention, training and assistance to victims of domestic violence and trafficking since 1994, including the setting up of a telephone hotline and the running of a crisis and rehabilitation centre. The NGO Nadia Centre Foundation, set up in 1995, provides psycho-social care to women victims of violence and victims of trafficking (including a shelter) and runs training programmes. The Gender Research Foundation specialises in the provision of legal assistance and monitoring of legislation, with a particular focus on gender equality. The NGO Partners Bulgarian Foundation runs the project "Save the Children". The Bulgarian Helsinki Committee has, in particular, performed research on human trafficking in the Roma community and child trafficking.

42. Outside Sofia, a number of NGOs run projects related to the fight against THB at the local level. For example, Caritas Rousse organises prevention campaigns in schools, trains volunteers and currently works on a joint project with Caritas Bucharest. In Varna, the NGO SOS Families at Risk runs a crisis centre. Another NGO, Open Door Foundation, runs a shelter in Pleven.

43. The NCCTHB keeps a national register of NGOs active in the area of combating THB, which in 2010 included 30 organisations. The NRM set up at the end of 2010 includes 14 NGOs as service providers. These NGOs are responsible for the identification of trafficked persons and the provision of emergency and long-term psychological, social, health and legal assistance to them.

44. The work of Bulgarian NGOs in the area of combating THB is often done jointly with international NGOs, e.g. La Strada and Terre des Hommes, and has been funded mostly by international donors. The key international players in this area are the IOM, the International Centre for Migration Policy Development (ICMPD), and USAID.

45. As noted in paragraph 28, NGOs can participate in the meetings of the NCCTHB solely as observers. Five NGOs and two international organisations are currently represented in the working group set up at the NCCTHB. As regards the local commissions, NGOs participate as full members. Further, certain NGOs (e.g. Animus Association, Nadia Centre Foundation) have signed memoranda of understanding with the Ministry of the Interior.

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

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

46. 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"[2].

47. THB constitutes an offence to the dignity and fundamental freedoms of the human being and is 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 (in case the State concerned is a Party to it). This has been confirmed by the European Court of Human Rights in its judgment in the case of *Rantsev v. Cyprus and Russia*, where the Court concluded that THB within the meaning of Article 3(a) of the Palermo Protocol and Article 4(a) of the Anti-Trafficking Convention falls within the scope of Article 4 of the European Convention on Human Rights[3] (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.

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

49. GRETA wishes to stress the need for States to also address THB as a form of violence against women and to take account of gender-specific types of exploitation, as well as the particular situation of child victims of THB, in line with the relevant international legal instruments[4].

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2 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

3 *Rantsev v. Cyprus and Russia*, no. 25965/04, paragraph 282, ECHR 2010.

4 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.

50. Pursuant to Article 5, paragraph 4, of the Bulgarian Constitution, international treaties which have been ratified in accordance with the constitutional procedure, have been promulgated and have come into force with respect to Bulgaria are part of Bulgarian legislation and have primacy over any conflicting provision in domestic legislation. In this regard, the Council of Europe Anti-Trafficking Convention is part of the domestic legislation of Bulgaria and all its regulations should be perceived as part of domestic legislation. According to the Bulgarian authorities, in this way Bulgaria has adopted the idea that trafficking in human beings constitutes a violation of human rights and an offence to the dignity and the integrity of the human being.

51. Policy documents related to the fight against THB, such as the annual National Programmes, also make it clear that THB is a serious violation of human rights and an affront to human dignity, in some cases resulting in violations of the right to life. The introduction to the NRM reaffirms this and stresses that trafficked persons have a broad range of short and long-term needs which must be met in order to lead fulfilling lives.

52. It is also noteworthy that NGOs active in the fight against THB in Bulgaria promote a human rights-based and victim-centred approach through their projects. In particular, NGOs which run crisis centres and shelters and provide various forms of assistance put the emphasis on the fact that victims of trafficking are in the first place persons in need of care and protection, and not just witnesses.

53. To illustrate the human-rights based approach to action against THB, the Bulgarian authorities have highlighted the obligations of the State with regard to victims of trafficking contained *inter alia* in the Anti-Trafficking Law (which provides for assistance measures to such victims and grants them a special protection status for the time of the criminal proceedings), the Law on Assistance and Financial Compensation to Crime Victims (which specifically lists THB as one of the most severe crimes against the person for which the State has the obligation to support and compensate the victims), the Law on the Protection of Individuals at Risk in Relation to Criminal Proceedings (which provides for special protection measures for participants in criminal proceedings related to THB), the Law on Child Protection (which enforces the right of every child at risk to receive special protection by the state), and the Law on Protection against Discrimination.

54. 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 efforts of all relevant actors, 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 Bulgarian authorities in these fields.

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

i. Definition of “trafficking in human beings”

55. 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.

56. Under Bulgarian law, a definition of trafficking in human beings is provided in Paragraph 1 of the Additional Provisions of the Anti-Trafficking Law, according to which:

> "1. "Trafficking in human beings" means the recruitment, transportation, transfer, concealment or acceptance of human beings, regardless of their own will, by means of coercion, abduction, deprivation of liberty, fraud, abuse of power, abuse of a state of dependence, or by means of giving, receiving or promising benefits to obtain the consent of a person who has control over another person, when it is carried out for the purpose of exploitation;
>
> 2. "Exploitation" means the illegal use of human beings for debauchery, removal of physical organs, forced labour, slavery or servitude;
>
> 3. The recruitment, transportation, transfer, concealment or acceptance of children for the purpose of exploitation shall be considered an act of trafficking in human beings, regardless of whether they have been carried out by the means in subparagraph 1 above."

57. This definition of THB includes the three above-mentioned constitutive elements of THB as regards adults, in line with Article 4(a) of the Convention. As regards children, the definition of trafficking contains only two of the above elements, i.e. the action and the purpose of exploitation, irrespective of the means used. This is also in line with the definition in the Convention.

58. A definition of trafficking in human beings is also provided in the Criminal Code (CC), pursuant to which:

> Article 159a: "1. An individual who recruits, transports, hides or admits individuals or groups of people in view of using them for sexual activities, forced labour, dispossession of bodily organs or holding them in forceful subjection, regardless of their consent, shall be punished by deprivation of liberty of two to eight years and a fine from BGN three thousand to twelve thousand.
>
> 2. Where the act under paragraph 1 has been committed:
>
> 1. with regard to an individual who has not turned eighteen years of age;
> 2. through the use of coercion or by misleading the individual;
> 3. through kidnapping or illegal deprivation of liberty;
> 4. through abuse of a status of dependency;
> 5. through the abuse of power;
> 6. through promising, giving away or receiving benefits,
>
> the punishment shall be deprivation of liberty from three to ten years and a fine from BGN ten thousand to twenty thousand.
>
> 3. Where the act under paragraph 1 has been committed in respect to a pregnant woman with the purpose of selling her child, the punishment shall be deprivation of liberty from three to fifteen years and a fine from BGN twenty thousand to fifty thousand."
>
> Article 159b: "1. An individual who recruits, transports, hides or admits individuals or groups of people and guides them over the border of the country with the objectives under Article 159a, paragraph 1, shall be punished by deprivation of liberty from three to twelve years and a fine of up to BGN ten thousand to twenty thousand.
>
> 2. Where the act under paragraph 1 has been committed in the presence of characteristics under Article 159a, paragraphs 2 and 3, the punishment shall be deprivation of liberty from five to twelve years and a fine from BGN twenty thousand to fifty thousand."

Article 159d: "Where acts under Articles 159a and 159b qualify as dangerous recidivism or have been committed at the orders or in implementing a decision of an organised criminal group, the punishment shall be deprivation of liberty from five to fifteen years and a fine from BGN twenty to one hundred thousand, the courts being also competent to impose confiscation of some or all possessions of the perpetrator."

59. The above-mentioned provisions of the CC criminalise all forms of trafficking: internal trafficking (Article 159a), transnational trafficking (Article 159b), trafficking linked to organised crime (Article 159d) and trafficking not linked to organised crime (Articles 159a and 159b).

60. Within the meaning of Bulgarian criminal legislation, "debauchery" is the exploitation of prostitution or other unlawful sexual activities with a mercantile purpose. The forms of exploitation covered by the Bulgarian definitions of THB are thus in compliance with the definition in Article 4 of the Convention. In addition, Bulgarian legislation includes as a separate form of exploitation the trafficking of a pregnant woman for the purpose of selling her child. On the other hand, it would appear that the list of forms of exploitation covered by Bulgarian legislation is exhaustive rather than open-ended as is the case in the Convention.

61. As regards the actions leading to the exploitation of the victim, Article 159a of the CC refers to four of the five actions contained in the definition of THB in the Convention: recruitment, transportation, hiding (which is a synonym of harbouring) and admittance (which is a synonym of receipt). According to the Bulgarian authorities, the action of "transfer" is covered by Article 159b (on transnational trafficking) which contains the action of "guiding over the border" in addition to the ones contained in Article 159a.

62. The two definitions of THB under Bulgarian law – in the Anti-Trafficking Law and in the CC - differ when it comes to the means by which exploitation is achieved. While the former definition follows the approach adopted in the definition in the Convention, in the case of the latter, the component of means is excluded from the *corpus delicti* under Article 159(a), paragraph 1, of the CC. The use of means is considered as an aggravating circumstance under Article 159(a), paragraph 2, points 1 to 6, of the CC and carries heavier penalties, with the means contained in this provision of the CC corresponding to those enumerated in the Convention (see paragraph 55). In this context, reference should be made to an Interpretative Decision of the Supreme Court of Cassation dated 16 July 2009 concerning the application of the legal provisions on THB and aiming at the unification of judicial practice. According to it, the Bulgarian legislator has made it possible to bring under criminal liability more perpetrators because to prove that there was a *corpus delicti*, it is sufficient to demonstrate that one of the actions took place with the purpose of exploitation, without having to prove the use of means (the latter being considered as aggravating circumstances). As a result, not only the crime of THB but also its victims are given a broader definition under Bulgarian criminal law in comparison with the Anti-Trafficking Law and the Council of Europe Convention. This approach is seen as corresponding to the current economic and social climate in Bulgaria: because of their difficult material situation, some people enter into an "employment-like" relationship with traffickers who do not have to use coercion or fraud to achieve the goal of exploitation. According to senior prosecutors and judges met during GRETA's country visit to Bulgaria, this approach has led to a higher number of prosecutions and convictions.

63. Pursuant to Article 4(b) of the Convention, the consent of the victim of THB is irrelevant where any of the means set forth in the definition of THB have been used. The above-mentioned interpretative decision of the Supreme Court of Cassation makes it clear that the consent of the victim ("the voluntary nature of the victim's behaviour") does not nullify the criminal liability of the perpetrator. Whether the victim has consented to the exploitation or has been coerced through one of the means is irrelevant for establishing the basic *corpus delicti*, although it may be of importance when establishing the extent of the penalty. This tallies with the above-mentioned approach to the use of means as an aggravating circumstance.

64. GRETA has some concerns as to whether the definition of THB contained in Article 159a of the CC might pose problems when it comes to using instruments of international co-operation, such as extradition, in particular if there are no aggravating circumstances and the offence under Article 159a of the CC is not considered as trafficking in human beings under the legislations of other Parties to the Convention. In this connection, the Bulgarian authorities have indicated that Bulgaria applies successfully the international, bilateral and multilateral instruments on extradition. Since January 2007, Bulgaria applies the Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States. The 2005 Law on Extradition and European Arrest Warrant lists the crimes under this Framework decision for which there is no need to check double criminal liability, one of them being trafficking in human beings. Through the removal of the requirement for double criminal liability, all possible problems concerning differences in definitions in national legislations are overcome. According to the Bulgarian authorities, there have been no cases for which the execution of a European arrest warrant was not granted to Bulgaria on the grounds that the act is not within the *corpus delicti* according to the legislation of the other country, if aggravating circumstances are not present under Article 159a, paragraph 2 of the CC (respectively Article 159b, paragraph 2 in connection to Article 159a, paragraph 2 of the CC, for cases of international THB).

65. GRETA takes note of the above-mentioned explanations of the Bulgarian authorities, which however would not apply to extraditions from/to non-EU countries. In this connection, GRETA stresses the fundamental importance of using a definition of trafficking in human beings on which there is international consensus. The definition of THB in Bulgarian law covers the concepts in Article 4 of the Convention in a manner consistent with the principles and spirit of the Convention. That said, GRETA notes the difference between the two definitions of trafficking in human beings under Bulgarian law as regards the use of means and invites the Bulgarian authorities to ensure that the national anti-trafficking provisions are interpreted in a manner fully conforming to the Convention.

ii. Definition of "victim of THB"

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

67. Under Bulgarian law, the definition of "victim of THB" is provided in Paragraph 1, subparagraph 5, of the Additional Provisions of the Anti-Trafficking Law, pursuant to which a "victim" is every person who has been subject to trafficking in human beings. This definition is in conformity with the Convention.

68. As mentioned in paragraph 51, several other legal acts contain provisions related to the rights of victims of trafficking to assistance, protection and redress. The question of the definition of victim of THB will be further discussed in the sections of this report dealing with the identification of victims and the assistance measures provided to them, along with the related proposals made by GRETA.

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

i. Comprehensive approach

69. 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).

70. The legal and policy framework in the field of action against THB in Bulgaria which has been outlined above is intended to cover all victims of THB subjected to different types of exploitation, both transnationally and nationally. The composition of the NCCTHB and the expert working group set up within it is multidisciplinary in nature. Further, the annual national programmes aim to involve all relevant actors and cover the aspects of prevention, protection and prosecution, as well as international co-operation. For example, the 2011 National Programme includes activities in the following areas:

(i) Institutional and organisational measures, the goal of which is to build the mechanisms for institutional support, develop the administrative structures provided for in the Anti-Trafficking Law at national and local level, and ensure their effective functioning. In this context, the setting up of two more local commissions for combating THB and the development of state shelters for victims of trafficking are envisaged.

(ii) Prevention, the aim being to raise the awareness of the public and high-risk groups (women, children, ethnic minorities, unemployed and socially disadvantaged people) on the problem of human trafficking, and to develop mechanisms for curbing this phenomenon and for creating public intolerance towards it. Amongst others, it is planned to carry out an information campaign targeted at clients of sexual services, to expand the prevention activities at border crossing points, to include prominent Roma community leaders in the fight against THB, and to develop health and social programmes for prevention of pregnancy at a young age.

(iii) Training and qualification of staff, the goal of which is to increase the capacity of the staff of the NCCTHB, staff of the shelters for temporary accommodation of victims of trafficking, service providers staff and public officials (magistrates, law enforcement officials, border police staff, diplomatic and consular staff, social workers, teachers).

(iv) Protection, rehabilitation and reintegration of victims of THB, the goal being to provide assistance and support to victims and protect their rights. In this context, it is envisaged to develop special employment programmes for victims of THB, to popularise the Law on Assistance and Financial Compensation to Crime Victims, and to set up a working group for the development of a mechanism for providing a package of social services to victims of THB.

(v) International co-operation, the goal of which is to share good practices and build bilateral and multilateral partnerships.

(vi) Legislative measures. In this context, it is *inter alia* envisaged to propose amendments to the Anti-Trafficking Law and related legislation, in particular with a view to strengthening support to victims, and to develop a mechanism for the provision of free legal assistance to victims of THB throughout the criminal proceedings.

71. The preventive measures taken to date have aimed at raising broad awareness rather than focusing on the most vulnerable groups (see paragraphs 113-119). Thus the activities aimed at prevention of trafficking usually take place in big towns. There is a shortage of preventive measures that take place in Roma neighbourhoods, and little evidence of direct participation in systematic and consistent prevention measures by vulnerable groups such as Roma, poor people, and disabled women and children, or of NGOs working with these groups. That said, GRETA notes the outreach programme developed in Varna and aimed at the Roma community, which is a very good example of local preventive action (see paragraph 117). The NCCTHB, which considers the work with the most vulnerable groups as a priority, is currently searching for funds to apply this model in the regions of Burgas, Montana and Sliven. The Bulgarian authorities acknowledge the need to step up prevention work among ethnic minorities, which figures as one of the priorities of the 2011 National Programme. Similarly, prevention amongst children as a vulnerable group is also seen as a priority. This group has been targeted mostly through the education system (see paragraph 115). That said, due to the problems of registering Roma children at birth and enrolling them in schools (see paragraph 126), the preventive measures taken through the education system risk to miss this vulnerable group.

72. Another aspect which has not received due attention in the national policy against THB is the trafficking of foreign nationals. As noted above (see paragraph 12), there is general acknowledgment that foreign victims of trafficking both transit Bulgaria and reach it as a country of final destination. However, the very low number of identified foreign victims in the official statistics suggests that there is a scope for improvement in the identification process when it comes to foreign nationals arriving or residing in Bulgaria. Concerns have been expressed by NGOs that foreign victims of THB are extradited before being identified and given the opportunity to recover and co-operate with the authorities (see paragraph 150).

73. Further, when it comes to prevention measures, GRETA takes note of the concern expressed by NGOs according to which gender mainstreaming is not sufficiently present in the national anti-trafficking policy. In this context, GRETA wishes to stress that gender equality means not only non-discrimination on grounds of gender, but also positive measures to achieve equality between women and men. Equality must be promoted by supporting specific policies for women, who are more likely to be exposed to human rights violations such as physical violence, rape and trafficking for the purpose of sexual exploitation.

74. Statistical information for 2010 (see paragraph 11) indicates that there have been cases of trafficking for the purpose of removal of organs. According to journalistic investigations, this phenomenon appears to be on the rise; it has, however, not been adequately addressed in the policy framework for combating THB.

75. Another aspect of the fight against THB which needs increased attention is the reintegration of victims of trafficking and the prevention of re-trafficking (see paragraph 168).

76. The limited budget of the NCCTHB prevents it from developing the aspect of assistance to victims. As noted in paragraph 23, the activities included in the annual National Programmes depend on funding being secured by the ministries and other public bodies involved. Most of the assistance to adult victims of THB, including the running of crisis centres and shelters, has been provided by NGOs funded by donors. A lot of the prevention, training and research projects have also depended on external financing. The reliance of the national action against THB on international donors can have negative aspects, such as uncertainty about the continuation of funding, dependence on the priorities and agendas of the donors, and danger of a lack of coherence of the project activities. Further, following Bulgaria's entry into the EU in 2007, there has reportedly been a withdrawal of external funding for NGOs. GRETA understands that a small grants fund (totalling 50 000 BGN) has been set up at the NCCTHB in 2011 and that NGOs are entitled to apply to it for the financing of projects. Since 2009, the NCCTHB has opened one state-funded shelter, in Varna, and a second one was to be opened in Burgas in September 2011. As regards assistance to child victims of trafficking, it is funded by the state budget (see paragraph 166).

77. As regards the implementation of the annual National Programmes, there is no evaluation performed by an independent body. In addition to the annual reporting system by the NCCTHB, such an independent evaluation can assist the authorities in assessing the impact of the activities and help them plan future policies and measures to combat THB.

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

- **pay increased attention to preventive measures among vulnerable groups, such as the Roma community, children and disabled persons;**
- **include in the national policy measures to identify the scale of trafficking of foreign nationals and to provide such victims of THB with assistance in accordance with the Convention;**
- **ensure that gender mainstreaming is reflected in the national anti-trafficking policy;**
- **include in the national action measures to address THB for the purpose of removal of organs;**
- **provide for increased measures to assist the reintegration of victims of THB and prevent re-trafficking;**
- **allocate the necessary resources to the NCCTHB to enable it to fulfil its mandate;**
- **include action against THB as a priority issue in the programmes and projects proposed for financing through EU Structural Funds.**

79. **Further, GRETA invites the Bulgarian authorities to introduce an independent evaluation of the annual National Programme as a tool for assessing the impact of the activities and for planning future policies and measures to combat THB.**

ii. Co-ordination

80. Article 29(2) of the Convention requires Parties to take measures to ensure the co-ordination of their 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).

81. As indicated in paragraph 24, since 2004 the NCCTHB has defined and administered the implementation of the national policy and strategy in the area of combating THB, by co-ordinating interaction between relevant state institutions. The fact that the NCCTHB is subordinated to the Council of Ministers rather than to any particular Ministry is a sign of political will to ensure that it functions as an inter-agency structure. GRETA considers that this is a good practice. However, given that the Secretariat of the NCCTHB is expected to perform a variety of tasks linked to the planning, implementation and evaluation of the National Programme, GRETA considers that further investment should be made in the development of its human and financial resources.

82. GRETA takes note of concerns expressed by NGOs that the work of the local commissions for combating THB, which have been set up in locations with the highest level of risk of THB, is hampered by a high turnover among their members and insufficient motivation linked to the fact that members are not paid for their participation in the commissions' work. The secretary of each local commission, who is in charge of co-ordination and operational activities, is appointed by the mayor of the respective municipality, reportedly against very low pay.

83. According to the Regulation of the organisation and activity of the NCCTHB, representatives of NGOs can participate in the meetings solely as observers. The procedure for applying to participate in the meetings is rather complicated and, as far as GRETA understands, this theoretical possibility has so far not been used by any NGO. Admittedly, five NGOs and two international organisations are represented in the expert working group set up at the NCCTHB (see paragraph 29). The NCCTHB also took the initiative to invite certain NGOs and international organisations to its meeting on 23 November 2010. There is nevertheless a feeling in the NGO community that NGOs are not sufficiently involved in the national policy-making process. Further mechanisms for involving NGOs in decision making are needed in order to create synergies and increase the impact of their work. In addition, the criteria for participation in the expert working group are not clear and some NGOs active in the area of combating THB and interested in taking part in the working group have reportedly not been invited.

84. As noted in paragraph 41, the participation of NGOs in the action to combat THB in Bulgaria and protect its victims is fundamental. Many local, national and international NGOs implement projects for raising awareness and assisting victims of trafficking, but these initiatives lack consistency and co-ordination with a view to ensuring long-term, efficient action. Although the NCCTHB and NGOs are partners in a number of projects, the capacity of the NCCTHB to co-ordinate and guide the efforts of the different stakeholders is insufficient. For example, every year NGOs are invited by the NCCTHB to provide information on their activities against THB; however, this information is not subject to feedback and the activities are not evaluated by the NCCTHB. As a result, GRETA was informed that some NGOs develop and implement their projects on their own.

85. **GRETA invites the Bulgarian authorities to invest in the human resources of the NCCTHB and the local commissions for combating THB so that they can effectively carry out the full range of tasks within their mandate.**

86. **GRETA also invites the Bulgarian authorities to further strengthen co-ordination between national and municipal authorities and NGOs active in the field of action against THB and to ensure that NGOs are involved in the planning of the national policy**. **This could entail the conclusion of formal agreements between the state authorities and NGOs, setting out the specific framework for co-operation. Particular attention should also be paid to involving Roma NGOs in the fight against THB.**

iii. Training of relevant professionals

87. Over the years, training of professionals working in the field of prevention of THB and protection of its victims has been provided within the framework of many of the projects run by NGOs and financed by international donors, as well as by the national authorities.

88. According to the Bulgarian authorities, each new employee of the NCCTHB, the local commissions and the crisis centres undergoes initial training on human trafficking. At least one other training per year is organised. The NCCTHB also provides training for other actors engaged in combating trafficking in human beings, both from its own budget and through external financing. Until 2008, the financing of training activities depended on donors. In 2009, the NCCTHB spent 9 273 Euros on training of relevant professionals and 1 420 Euros on volunteers. In the first half of 2010, the amount spent by the NCCTHB on training of relevant professionals was 23 946 Euros and 2 677 Euros on volunteers. Another 13 726 Euros were planned for teacher training until the end of 2010.

89. In 2010, the Ministry of Education, Youth and Science, together with the NCCTHB and the local commissions for combating THB, organised training sessions on prevention of THB for teachers and pedagogic counsellors at schools in Burgas, Montana, Pazardzhik, Plovdiv, Sliven, Shumen, Sofia, Vratsa and Yambol. A total of 300 teachers and pedagogic counsellors reportedly followed this training.

90. As regards training on THB-related issues for police officers, it is provided at the Academy of the Ministry of the Interior both during the obligatory initial training (which includes two hours of lectures on THB) and in the context of building professional qualifications (four hours of lectures). A specialised distance learning course "Counteraction of crimes related to THB", lasting five weeks, is also available and was reportedly followed by 90 persons in 2010. According to information provided by the Ministry of the Interior, in 2010, training on THB was provided in the context of six different modules, one of which was a "training of trainers" (involving some 1 000 police officers).

91. Specialised training for magistrates on the crime of THB takes place at the National Institute of Justice. Further, within the framework of the Bulgarian-Norwegian project "Improving the Bulgarian-Norwegian response to human trafficking", training seminars for magistrates and social workers employed in shelters, crisis centres and child protection units were organised in 2010. Within the framework of the same project, training seminars on methods for investigating crimes related to THB were organised for prosecutors in all regions. Moreover, the National Investigation Service provides training to investigators on crimes related to THB following a specially developed methodology.

92. A project run by the ICMPD entitled "Awareness training on trafficking in human beings for police, border guards and customs officials in EU member states and candidate countries" developed a European standard module (including a background reader, handbook and trainer guide) for the training of professionals on the basis of the relevant EU and international standards.

93. Training on THB-related issues is also provided to diplomats, consuls and military attaches at the Diplomatic Institute of the Ministry of Foreign Affairs. Further, in 2009, the IOM organised two workshops for relevant professionals on THB for labour exploitation in the context of the management of labour migration.

94. GRETA welcomes the efforts made by the Bulgarian authorities to train relevant professionals working in the field of prevention of THB and protection of its victims. Despite these efforts, NGOs have expressed concerns about the attitude of some law enforcement officials who reportedly treat victims of trafficking as "prostitutes" (in particular those from the Roma community). Furthermore, it would appear that professionals working with groups at risk, such as those employed in homes for children without parental care and staff of the local commissions for combating juvenile delinquency, have not benefited from training on THB-related issues.

95. **GRETA invites the Bulgarian authorities to design future training programmes with a view to improving the knowledge and skills of relevant professionals which enable them to identify victims of trafficking and to assist and protect them. Training on THB-related issues should also be provided to staff working in homes for children without parental care and the local commissions for combating juvenile delinquency. During the training, particular attention should be paid to overcoming entrenched negative attitudes and prejudices vis-à-vis victims of trafficking. As regards in particular training for law enforcement officials, it should aim also at developing skills for proactive prevention work.**

iv. Data collection and research

96. According to Article 7(4) of the Anti-Trafficking Law, the NCCTHB promotes the research, analysis and statistical reporting of human trafficking data. Since the beginning of 2008, using a database model developed by the ICMPD, the Secretariat of the NCCTHB has been collecting data on victims of trafficking from all relevant authorities and NGOs, as well as data on traffickers from the Prosecutor's Office. The database (still under construction) should serve the analysis of tendencies, methods, profile of victims, risk regions, etc. and thus help the planning of necessary steps for prevention and protection of victims. The Secretariat of the NCCTHB acknowledges that there are challenges in building the database since information is collected by different instances, e.g. the Supreme Cassation Prosecutor's Office, the Ministry of Justice, the Ministry of the Interior, the SACP, NGOs).

97. In addition, the Supreme Cassation Prosecutor's Office gathers, summarises and analyses on a monthly and annual basis information regarding criminal proceedings in cases of human trafficking, the number of accused, convicted and acquitted persons as well as data on the victims of trafficking (gender, age, purpose of the exploitation). According to the Bulgarian authorities, a unified information system to combat crime (UISCC) is currently under development by the Prosecutor's Office and it will be accessed by all right-protection bodies. As regards the provisions on trafficking in human beings in the CC (Articles 159 a-d), the system can deliver reports according to 19 criteria related to the qualification of the crime in the CC, each of them with subcriteria for the included events.

98. It is noteworthy that the official statistics on victims of THB collected by the Supreme Cassation Prosecutor's Office are limited to persons who have taken part in criminal proceedings as witnesses. This significantly narrows the understanding of the problem (official statistics being referred to as merely "the tip of the iceberg") and, in turn, the resources which are allocated to the protection and assistance of victims. The data collection should therefore be broadened to include victims of THB identified by NGOs and other relevant structures, regardless of whether criminal proceedings have been instituted and whether the persons have given testimony against the alleged perpetrators. In this context, GRETA was informed that the database under construction at the NCCTHB has the option of qualifying victims as potential or identified, both categories being entered regardless of their identification or participation in criminal proceedings.

99. As regards research, in 2008, the NCCTHB commissioned two sociological surveys on public opinion and attitudes to THB, one involving 1 502 adults, the other involving young people aged between 18 and 35.[5] The sociological surveys found that some 45% of young people from risk groups do not have a clear idea about what "trafficking in human beings" means. In particular, there is a low level of awareness as regards the problem of trafficking within the country and the trafficking of foreigners into Bulgaria. In the autumn of 2009, the same agency carried out a sociological research entitled "Trafficking in human beings: emigration and sexual exploitation" which involved a sample of 1 007 persons aged over 18.[6] According to this research, following Bulgaria's accession to the EU, the partial opening of the job market and the growing institutional culture of people have substantially decreased human trafficking for labour exploitation. The research found a considerable change in the methods and mechanisms of recruiting young women for sexual exploitation, with violence ceding its place to coercion and deception, and force being substituted by a "negotiated relationship" or "advance payment". The NCCTHB is using the results of these sociological researches to develop its future strategy and activity programmes.

100. In 2010, the Bulgarian Helsinki Committee carried out research on THB in five of the largest Roma communities in Bulgaria, which was used in a publication by the European Roma Rights Centre.[7] The official statistics do not provide a breakdown according to ethnicity (processing such data is prohibited under the Law on Protection of Personal Data) and assessing the number of Roma victims of trafficking is thus not easy. According to NGO estimates, Roma constitute over 50% of victims of trafficking because they are overrepresented among the poor and less educated people, and cannot rely on support from the municipal or state authorities. According to policemen interviewed for the purposes of the research, Roma constitute over 80% of the victims of trafficking. The interviews of Roma victims and their relatives/friends showed that they have no trust in the police and prosecution and do not report cases of trafficking to the authorities. Victims who live in Roma neighbourhoods also have limited access to information about the available social services supporting victims of trafficking and are not aware of any prevention programmes. As a result, Roma victims of trafficking are more vulnerable, less informed and have a lower capacity to escape trafficking channels. The research found that the police and prosecution do not collect information about potential victims/perpetrators and do not inform residents of Roma neighbourhoods about their rights in case they or their acquaintances appear to be victims. The research concluded that the police and prosecution adopt a reactive approach to crimes of trafficking in human beings rather than a proactive one.

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5 http://antitraffic.government.bg/images/info_files/1254918665.pdf

6 Mediana Agency, "Trafficking in Human Beings, Emigration and Sexual Exploitation", October 2009. http://antitraffic.government.bg/images/info_files/1265975066.pdf

7 European Roma Rights Centre, "Breaking the Silence: Trafficking in Romani Communities", March 2011.

101. Further, the NGO Animus Association is planning to start a study on the profiles of victims of trafficking in seven regions of Bulgaria. An area where further research appears to be needed is trafficking for labour exploitation in Bulgaria.

102. GRETA welcomes the progress made in developing the aspect of data collection on THB. **GRETA considers that, for the purpose of preparing, monitoring and evaluating anti-trafficking policies, the Bulgarian authorities should develop and maintain a comprehensive and coherent statistical system on trafficking in human beings by compiling reliable statistical information from all main actors and allowing disaggregation (concerning sex, age, type of exploitation, country of origin and/or destination, etc.). This should be accompanied by all the necessary measures to respect the right of data subjects to personal data protection, including when NGOs working with victims of trafficking are asked to provide information for the national database.**

103. **In addition, GRETA invites the Bulgarian authorities to continue conducting and supporting research on THB-related issues as an important source of information for future policy measures. Areas where research is needed in order to shed more light on the extent of the problem of THB include trafficking of foreign nationals and trafficking for the purpose of labour exploitation in Bulgaria.**

v. International co-operation

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

105. In Bulgaria, the aspect of international co-operation in the area of combating THB is well developed, both at the level of the national authorities and at civil society level.

106. In addition to being a member of the European Police Office (EUROPOL) and Interpol, Bulgaria has concluded bilateral agreements in the area of police co-operation with almost all EU and EFTA states. Further, since March 2009, Bulgaria is Party to the Convention on Police Co-operation in South-East Europe. As mentioned in paragraph 37, Bulgaria participates in the MIRAGE group established under the SECI Centre in Bucharest, via which bilateral and multilateral police operations are conducted, intelligence is exchanged, and parallel investigations are conducted with the other 12 SECI member States. In the area of police investigations, there are a number of examples of successful joint actions through the setting up of joint investigation teams (JITs), recently with the UK and the Netherlands. In 2010, a joint operation with the Greek police led to dismantling a channel for trafficking pregnant women and selling their newborn babies in Greece. Another example concerns a joint operation with the French police which resulted in stopping a trafficking channel of women for sexual exploitation from Varna to Bordeaux. Further, a model for combating child trafficking was developed with the Austrian authorities and similar models are being set up with Greece and the UK.

107. According to the Bulgarian authorities, whenever there is information on criminal activity related to trafficking in human beings outside Bulgaria, the Ministry of the Interior immediately informs its partner services by providing them with complete data related to the case. The information exchange can take place directly between the responsible units or through the National central bureau of Interpol, the National unit EUROPOL, EU member States liaison officers in Bulgaria, representatives of the Ministry of the Interior abroad or the Bulgarian liaison officer at the SECI Centre in Bucharest.

108. The co-operation between destination countries and countries of origin, such as Bulgaria, is of paramount importance. In addition to co-operating in the area of investigations, certain countries of destination for Bulgarian victims of trafficking (e.g. the Netherlands) have started getting more involved in addressing the pull factors and have been funding projects in Bulgaria. For example, the project "Trafficking in human beings in Bulgaria and the Netherlands – common efforts in counteraction" was implemented by the NCCTHB, the Bulgarian Ministry of the Interior, the Dutch Police and other Dutch public agencies in 2009–2010. Another project, entitled "Reducing the number of Romanian and Bulgarian victims trafficked into Spain and Italy" (2007–2010), brought together the efforts of the NCCTHB, the Romanian National Agency for Combating Trafficking in Persons, the Department for Rights and Equal Opportunities of Italy, the General Police Directorate of Spain and the United Kingdom Human Trafficking Centre. Workshops and seminars intended for sharing experience and good practices between relevant professionals have been organised by France, Norway, Sweden, the UK, the USA, etc.

109. A number of other projects in the area of international co-operation have taken place in recent years. The key international players in this area are the IOM, the ICMPD and USAID. One of the projects, entitled "Transnational referral mechanism – South-Eastern Europe", was launched in 2007 with the participation of the ICMPD, USAID, the NCCTHB and the Bulgarian Ministry of the Interior. The objective of this project is the development of mechanisms for comprehensive transnational victim support and co-operation on transnational cases between participating countries from South-Eastern Europe (Albania, Bosnia and Herzegovina, Bulgaria, Croatia, "the former Yugoslav Republic of Macedonia", Moldova, Montenegro, Romania, Serbia and Kosovo[8]).

110. The NCCTHB convenes periodic meetings of the international donor co-ordination group for combating THB which has been set up in order to share information, discuss future projects and co-operation possibilities.

111. GRETA commends the efforts made in the area of international co-operation and **invites the Bulgarian authorities to continue exploring possibilities for international co-operation in the fields of protecting and assisting victims of THB, and the investigation and prosecution of trafficking cases.**

[8] All reference to Kosovo, whether 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.

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

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

a. Awareness raising and education

113. Given that Bulgaria is perceived as predominantly a country of origin, raising awareness about THB as a form of prevention has played a key part in the action taken by the Bulgarian authorities in partnership with NGOs, foreign governments and international organisations (in particular the IOM and ICMPD). A great number of campaigns and projects have taken place over the years, covering THB for the purposes of sexual and labour exploitation, of both adults and children, and taking place both transnationally and nationally. To mention but a few examples from recent years:

- Since 2007, the NCCTHB has organised campaigns to mark the European Day against Human Trafficking (18 October). In 2008, together with the SACP, the Ministry of Education, Youth and Science, and several NGOs, the NCCTHB developed information materials for school children and teachers with the message "Trafficking in human beings: time for action", which were disseminated to 3 000 schools throughout the country. A survey of the effectiveness of this activity (involving some 7 800 teachers and 133 180 pupils) was carried out by the NCCTHB. The results of this survey were used to plan other activities in the following years and to develop a manual for teachers regarding the topic of THB and its teaching at school. This manual, which includes several modules, case studies and a role-play, was disseminated to all the country's schools at the beginning of the school year 2010-2011. Trainings of teachers on how to use the manual have been organised.

- A national campaign "16 days against violence against women" took place in 2008.

- Also in 2008, the campaign "A safe holiday" was carried out in 31 schools in four cities in Bulgaria with the aim of preventing trafficking for labour exploitation of students looking for summer jobs. It involved screenings of the American documentary "Cargo: Innocence Lost" accompanied by discussions on THB. The feedback given by the participants was used to evaluate their knowledge of the problem of THB and the impact of the documentary.

- In 2009, the national campaign "Better informed than exploited", intended for the general public, was carried out by the NCCTHB together with a series of governmental and non-governmental actors.

- In 2010, the programme "Human trafficking in Bulgaria and the Netherlands – common efforts in counteraction" was carried out by the NCCTHB in co-operation with the Bulgarian Ministry of the Interior and Dutch Government agencies. It was addressed to the general public in risk regions (Burgas, Montana, Pazardzhik, Sliven and Varna) and involved the distribution of information materials, a video clip, simulation court cases, contests and volunteer training.

- In August 2010, the NCCTHB printed and distributed the Council of Europe comic strip "You are not for sale".

- The NGO Animus Association runs a 27-month long project "REACT – Raising awareness and empowerment against child trafficking", which is implemented in Bulgaria, Denmark, Italy and Romania. The aim of the project is to prevent trafficking in children in particular through the use of new information technologies. As part of the project, a survey was carried out and its results were presented in an analytical report. Further, 10 workshops were organised with the participation of children.

114. At the local level, the commission for combating THB in Varna has recently carried out several campaigns: "Where do you travel to?" (targeting labour exploitation), "A summer without risk" (for young people from risk groups), "You are not for sale" (also targeting young people) and "Pay it forward" (including the distribution of discs with prevention materials). Also in Varna, efforts have been made to raise awareness and prevent risk behaviour in the Roma community (see paragraph 118) and amongst young people with mental problems. In 2009, the local commission in Burgas published a brochure on THB and distributed it in schools as part of an information campaign. Also in 2009, the local commission in Sliven carried out a campaign entitled "No to trafficking – a person is not a commodity" with the involvement of actors, as well as a charity event under the slogan "Trafficking in persons – there is always a choice" and discussions in schools. Further, in 2009 the local commissions in Burgas, Pazardzhik and Varna set up information and consultation centres.

115. Since young people in Bulgaria, attracted by the hope of a "better life" abroad, constitute the majority of victims of trafficking, an emphasis has been put on measures to raise the awareness of pupils and students about THB. For example, in 2009, seminars for teachers and preventive programmes for secondary school pupils were organised in Blagoevgrad, Pazardzhik, Pomorie, Rousse, Sofia and Varna, with the joint efforts of the national and local authorities and NGOs. In 2010 and 2011, the NCCTHB organised training sessions for teachers and 7 800 manuals on how to prevent THB were distributed to schools, institutions for children with disabilities or deprived of parental care, municipalities, NGOs, etc.

116. Following a pilot project implemented since 2007 by the SACP, UNICEF and the NGO Nadia Centre Foundation, a national hotline for children (using the harmonised European number 116 111) was opened in October 2009, providing free of charge 24-hour consultations and services on a wide range of issues. Efforts have been made to popularise the hotline through the media, by means of a webpage, and through posters and stickers distributed in schools and on public transport in Sofia. Further, representatives of the national hotline for children organised meetings with secondary school pupils where apart from the introduction of the hotline, they talked about the problems related to violence and trafficking in human beings.

117. In 2010, the Bulgarian Embassy in Brussels organised an information campaign about counteracting sexual and labour exploitation of Bulgarian citizens in Belgium. Further, the Bulgarian Embassy in Warsaw conducted an individual explanatory activity on the rights of victims of THB and co-operated with a Polish charity organisation for the provision of assistance to such victims.

118. There are a few examples of prevention measures targeted towards the Roma community which, as mentioned in paragraph 100, is disproportionately highly affected by the problem of THB. Since 2009, the municipal authorities in Varna have run a prevention programme for high-risk groups in two Roma neighbourhoods. The programme follows a multifaceted approach to prevention (targeting not only THB but also HIV/AIDS and drug abuse) and is based on outreach work. The success of the programme depends on recruiting more people from the Roma community who can be trained to do outreach work, involving Roma leaders and finding additional financing. Similar programmes are reportedly launched in the village of Kameno (Burgas region) and Montana.

119. Despite the host of projects and campaigns mentioned above, awareness-raising activities have been concentrated in big cities and not enough has been done to reach villages and poor areas where most of the victims come from. As already noted in paragraph 71, there has been a shortage of prevention measures in Roma neighbourhoods. The fact that the Roma community has an oral culture limits the impact of written information materials. Further, it would appear that the awareness-raising campaigns which have been organised so far have focused on potential victims, whereas little has been done to target perpetrators. Research shows that there is still a lack of understanding in society of the phenomenon of THB and people tend to think that what happens to victims is "their fault".

120. GRETA welcomes the efforts of the Bulgarian authorities to develop the aspect of prevention of human trafficking, including through awareness raising and education in schools. **GRETA considers that future actions in the area of awareness raising should be designed in the light of the assessment of previous measures and be focused on the needs identified. GRETA urges the Bulgarian authorities to develop the aspect of prevention in the Roma community through specific campaigns which are not based on written materials. Increased emphasis should also be placed on changing social attitudes towards victims. The success of the efforts will depend on efficient data collection, adequate funding and regular evaluation.**

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

121. Pursuant to the Anti-Trafficking Law, the NCCTHB has amongst its tasks to initiate and take part in the development and implementation of measures aimed at creating equal social and economic opportunities for risk groups, including conditions for integration of individuals from risk regions and risk groups into the labour market, micro-crediting programmes and programmes inciting employers to hire individuals from risk groups.

122. The Ministry of Labour and Social Affairs (MLSA), which is represented in the NCCTHB, is responsible for managing the State policy as regards living standards, social assistance, access to the labour market, support of children and the family, ethnic issues and equal opportunities. The MLSP develops programmes vulnerable groups, such as unemployed people, immigrants and children.

123. The Employment Agency of the MLSA executes a number of programmes, projects and measures for training and employment provision to different target groups (young people, persons who will retire soon, disabled). In 2010, there was no specific project within the framework of the National Employment Action Plan aimed at the integration of victims of THB. However, when victims register at the National Employment Agency they can use the full range of employment services.

124. In 2009, the MLSA set up information centres for immigrants in Burgas, Varna and Sofia, with financing from the European Fund for Integration of Third-Country Nationals. Two more such centres were established in 2010. Further, mobile teams have been set up for the provision of information to immigrants, including on the issue of THB.

125. As regards children, social workers from the Child Protection Units of the Agency for Social Assistance consult children on their rights and possibilities for support and protection. The Agency for Social Assistance participates in the training of staff of crisis centres for children victims of violence and human trafficking.

126. As already noted (see paragraph 100), the Roma community in Bulgaria represents a high-risk group in terms of THB. Several negative factors lead to the vulnerability of Roma to trafficking: illiteracy, lower education opportunities, unemployment, poverty, marriages and pregnancies at an early age, no systematic registration of newly born children, lack of permanent residence registration and hence no entitlement to social assistance allowance. It is noteworthy that nearly all pregnant women trafficked for the purpose of having their babies sold abroad have reportedly been Roma.

127. The Bulgarian authorities have informed GRETA of a variety of measures designed to combat the above-mentioned negative factors and prevent the trafficking of Roma. For example, the Directorate for Integration of Ethnic Minorities of the MLSA works with Roma NGOs and efforts are being made to change the practice of early marriages and introduce family planning. As an administrative measure, the MLSA has started fining doctors who become aware of the pregnancy of a girl aged less than 14 (which is illegal) without informing the relevant authorities. Further, the Ministry of Education, Youth and Science is taking measures to ensure that more Roma children attend school. The introduction of obligatory schooling from the age of five has reportedly had some positive results. Similarly to the MLSA, a centre for the integration of ethnic minorities has been set up at the Ministry of Education, and a multidisciplinary project aimed at the Roma community is being prepared. The National Council for co-operation on ethnic and integration affairs (within the Council of Ministers) is currently co-ordinating the development of a strategic document under the framework programme for the integration of Roma in society (2010-2020), which will include the topic of human trafficking.

128. **GRETA urges the Bulgarian authorities to strengthen the aspect of prevention through social and economic empowerment measures for groups vulnerable to THB. GRETA concludes that there is a need for a comprehensive, co-ordinated and adapted approach towards the problems in the Roma community, involving all relevant institutions and aiming at improving their integration and access to education, health care and social assistance as an ultimate prevention measure against THB. In this context, GRETA encourages the Bulgarian authorities to include in the national strategy for the integration of Roma in society measures to prevent the trafficking of Roma and to provide victims with assistance and protection.**

129. **Further, GRETA urges the Bulgarian authorities to take steps to secure the registration of all persons from socially vulnerable groups at birth and for social services, both as a prevention measure and in order to avoid re-trafficking.**

c. Measures to discourage demand

130. In accordance with the Convention, measures to discourage demand for the services of victims of THB, especially women and children, should be understood as a positive obligation on Parties to adopt and reinforce such measures as regards THB for the purpose of any form of exploitation (see paragraph 108 of the Explanatory Report on the Convention). As it is stated in the Recommended Principles and Guidelines on Human Rights and Human Trafficking, strategies aimed at preventing THB shall address demand as a root cause of trafficking[9].

131. Following the criminalisation of the use of services of trafficked persons in 2009, the NCCTHB organised a campaign to increase knowledge of the new Article 159c of the CC. In 2010 the NCCTHB, together with the company “Fame cards”, conducted an information campaign for the prevention of THB for sexual exploitation, which was directed at the users of sexual services. A brochure with information on the new legal provision was printed in 23 000 copies which were distributed in September 2010 in 424 public houses in seven cities especially selected because of the increasing use of sexual services and the high number of cases of THB. The campaign was assessed as successful due to the high interest of clients in the public houses towards the brochure.

132. **GRETA invites the Bulgarian authorities to continue their efforts to discourage demand for services from trafficked persons, targeting in particular the most common forms of THB in the country.**

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

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

133. The identification of potential victims of THB at the borders is performed by officials of the General Directorate Border Police of the Ministry of the Interior. These officials, who are specifically trained, are organised in "Operational-investigation activity" units, which function at each national border, including EU borders, as well as at airports certified by the International Civil Aviation Organisation. The most common methods used by border police officials are risk analysis and prevention measures. The latter include checks of preliminary lists of passengers from third countries and upon request, for flights to and from the EU, for comparison and investigation of persons travelling together.

134. Bulgaria is still not a party to the Schengen Agreement. However, there are mixed border guard teams with Romania which, according to the Bulgarian authorities, have produced excellent results in combating THB along the Bulgarian-Romanian border (which has become a trafficking hub) and the Black Sea coastline. The expected admission of Bulgaria to the Schengen Agreement is likely to affect the flow of immigrants, with more third-country nationals being trafficked to Bulgaria as a country of destination. The Bulgarian authorities are aware of the risks ahead and have taken measures to train police officers on the Schengen Information System (SIS) and its implications for illegal migration and THB.

135. Special measures are taken to prevent children who risk being subjected to trafficking from leaving the country. Thus pursuant to Article 76a of the Law on Bulgarian Identity Documents, if there is information that a child might be involved in activities listed in Article 11 of the Law on Child Protection (according to which "Every child has a right to protection against their use for purposes of begging, prostitution, dissemination of pornographic material, receipt of unlawful pecuniary income, as well as protection against sexual abuse"), the Ministry of the Interior, upon proposal by the Chairperson of the SACP, can decide not to issue a passport or to take away an already issued passport. Such measures were reportedly taken in respect of 51 children identified as victims of THB in 2008, 36 in 2009 and 31 in 2010. The Minister of the Interior, the Chairperson of the SACP and the Minister of Foreign Affairs have issued a joint instruction for the implementation of these measures.

136. Further, if there is information about persons concerning their involvement in recruitment, transportation, hiding or accepting people or groups of people with the aim of trafficking, the information is submitted to the Ministry of Foreign Affairs, together with a statement from the State Agency for National Security, with the aim of preventing potential victims from leaving the country when there is an invitation from persons suspected of trafficking.

137. Information on the procedure for entry and residence of foreigners in Bulgaria is provided through the websites of the Ministry of Foreign Affairs and Bulgarian embassies and representations abroad. Written information is also available on information boards placed at the entrance of Bulgarian consular offices abroad. According to the Bulgarian authorities, if there is substantial information that a person applying for a Bulgarian visa is a victim of human trafficking or is about to be involved in THB, this information is immediately sent to the respective authorities and in most such cases, the application for a visa is denied. If information about a THB situation is received after a visa has been issued, the border authorities are informed and have the right to deny the person's entry into the country.

138. As regards Bulgarian citizens travelling and working abroad, information on their rights of legal employment and as citizens of the EU is provided by the Bulgarian embassies and consular services (in particular in Berlin, Dublin and Nicosia). The Bulgarian embassy in Stockholm conducts explanatory activities for Bulgarian citizens regarding their rights of legal employment, labour exploitation and the consequences of illegal mediation in hiring labour. The latter embassy also reportedly provides a 24-hour hotline for victims of trafficking. Further, through its network of information and consultation centres in Bulgaria, the IOM Office in Sofia offers information and advice regarding labour legislation, travelling abroad safely, possibilities for legal migration as well as raising awareness on the risks of irregular migration.

139. A good practice is the appointment of "labour attachés" (officials of the MLSA) at a number of Bulgarian embassies in countries where Bulgarian nationals seek employment (there is currently one such "labour attaché" for Greece and Cyprus, one for the UK and Ireland, one for Spain and Portugal, one for Germany and Austria, and one for France). To prevent trafficking for labour exploitation, the Employment Agency of the MLSA provides information on its site about licensed employment agencies which offer work abroad. Information and practical advice for those intending to work abroad is also provided on the site of the NCCTHB. In this context, GRETA was informed that licenses have been taken away by an administrative order and the labour inspectorates have closed down dozens of companies advertising work abroad which could lead to labour exploitation.

140. GRETA welcomes the measures already taken by the Bulgarian authorities and **considers that the authorities should make further efforts to:**

- **detect cases of THB in the context of border controls;**

- **introduce a checklist to identify potential THB-related risks during the visa application system.**

141. **Further, GRETA invites the Bulgarian authorities to consider carrying out information campaigns to alert potential foreign victims of THB-related risks, in co-operation with countries of origin.**

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

142. The accession of Bulgaria to the EU has been accompanied by a process of harmonisation of Bulgarian identity, travel and other personal documents with EU requirements. According to information provided by the Bulgarian authorities, the new Bulgarian identity documents are in accordance with international requirements, including the recommendations of the International Civil Aviation Organisation on machine readable travel documents, the standards of the International Organisation for Standardisation, and EU decisions on unified passport templates.

143. Various measures have been taken to prevent the issuance of identity documents with the information of one person and the photograph of another. A real time online computer information system has been developed for the design and control of new Bulgarian personal documents, which is in accordance with the Law on Bulgarian Identity Documents regarding the preservation and use of personal data information files. Further, in order to prevent the use of falsified identity documents, some of the Bulgarian personal documents contain an electronic device with information about the biometric data of the person (photograph and finger prints). The issuance of these documents began in March 2010.

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

a. Identification of victims of THB

144. 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.

145. In Bulgaria, the identification of a victim of trafficking can be initiated in any one of the following ways: (i) a preliminary declaration by an institution or NGO, physical or legal entity, including a doctor, social worker or teacher; (ii) a complaint submitted by the victim or his/her relatives; (iii) during a police check-up or investigation. According to Bulgarian legislation, although a person can perform self-reporting, he/she is treated formally as a potential victim on the basis of existing indicators for the identification of victims of THB, which can happen through an NGO, the police or a citizen; in other words, self-identification is not possible. The police co-operates with NGOs in identifying victims. As mentioned in paragraph 45, memoranda of understanding have been signed between the Ministry of the Interior and certain NGOs.

146. The majority of Bulgarian victims trafficked abroad are identified either by law enforcement agencies in the country of destination (e.g. during a police raid) or by foreign NGOs doing outreach work. In such cases, either the Bulgarian police or a Bulgarian NGO are contacted by their foreign counterpart in order to assist the victim's return to Bulgaria. In more rare cases, identification takes place following preventive and investigative work which allows the law enforcement agencies to know in advance that a victim would be trafficked and to stop the trafficker and the victim at the border. As regards internal trafficking, the identification of victims often depends on proactive investigative work by the police. The police carries out periodic raids in nightclubs, bars and massage parlours.

147. As already noted (see paragraph 33), a National Mechanism for Referral and Support of Trafficked Persons in Bulgaria (NRM) was adopted at the end of 2010. It describes the roles and procedures of all stakeholders involved in the identification of victims of trafficking. The NRM provides for both informal identification (performed by employees of organisations who have the first contact with the victim) and formal identification (performed by staff of bodies responsible for pre-trial proceedings and aimed at starting the investigation). The indicators which are used for the identification process are included in an appendix to the NRM. These indicators are divided into two groups: (i) criminal activities against the victim, and (ii) effects of trafficking on the behaviour and psychological condition of the victim. Following the identification, the trafficked person's identity should be verified and he/she should be informed about the right to a reflection period. The identification process should include a risk assessment with regard to the immediate dangers to the health and life of the victim and the development of an individual safety plan.

148. Pursuant to the NRM, when a child victim of trafficking is identified, the SACP and the Ministry of the Interior are obligatorily informed within a period of 24 hours. The Co-ordination Mechanism for Referral, Care and Protection of Repatriated Unaccompanied Minors (see paragraph 35) is to be executed. The SACP, which has a co-ordinating role in the implementation of this mechanism, should inform the other relevant public bodies (Directorate for Child Protection of the Agency for Social Assistance, the NCCTHB, the Ministry of Foreign Affairs, local health-care authorities). In case a child victim of trafficking is a foreign citizen present on the territory of Bulgaria, the same Co-ordination Mechanism is to be implemented.

149. Concerning the identification of children trafficked inside Bulgaria, the attention of GRETA has been drawn to a contradiction between the Anti-Trafficking Law and the Law on the Prevention of Juvenile Delinquency. Pursuant to the latter law, a child who is begging, prostituting or stealing can be subject to educational measures. In order for a child to receive protection as a victim of trafficking, he/she should be formally referred by the relevant Child Protection Unit to the SACP. However, there have reportedly been cases in which the latter unit failed to identify a child victim of trafficking (especially in cases where the parents are the traffickers of their own child) and hence the trafficked child was subjected to educational measures rather than to assistance and protection. Without a formal preliminary investigation, the child cannot be taken away from his/her family.

150. In this context, the Bulgarian authorities have indicated that a new Concept for State policy in the area of juvenile justice was adopted by the Council of Ministers on 3 August 2011. The Concept puts the emphasis on measures which guarantee the best interest of the child, including strengthening the legal status of the child, creation of dedicated investigation and prosecution units for juveniles and specialised panels of judges, and closing down the juvenile delinquency commissions. The Concept envisages, *inter alia,* the adoption of a new Law on the Child, which will lead to repealing the Law on the Prevention of Juvenile Delinquency, a reorganisation of the child protection system and a full-scale reform in the area of children and family policies. The new Law on the Child will introduce a new approach to the rights of the child as a right-bearer and not only as an object for protection. The guarantees for observing the child's rights will be regulated by clear procedures and responsibilities of the relevant bodies, protection of the child outside the family, sanctions for violating the law and the introduction of a mechanism for co-ordination among institutions. GRETA welcomes the adoption of the new State policy in the area of juvenile justice and **encourages the Bulgarian authorities to ensure that the legal and institutional changes lead to improved prevention, identification and assistance of child victims of trafficking.**

151. As regards foreign victims of trafficking, according to statistical data provided by the Bulgarian authorities, only three cases have been identified in recent years (one from Poland and two from Moldova). The Border Police performs the identification of foreign victims at border checkpoints. Non-EU citizens residing illegally in Bulgaria are detained at the Special Home for Temporary Placement of Foreign Nationals in Busmantsi (near Sofia) pending their expulsion/forcible removal to the border. If the person files a request for asylum, the request is forwarded to the State Agency for Refugees GRETA was informed that staff of the Migration Directorate of the Ministry of the Interior working at the Busmantsi Home as well as staff of the State Agency for Refugees have received training for the identification of victims of trafficking. However, no such victims have been identified to date. NGOs providing assistance to irregular migrants have expressed concern about the lack of interpretation when staff of the Migration Directorate interview persons held at the Busmantsi Home, and the risk that trafficked persons may be sent back to their countries without being identified.

152. The Bulgarian authorities have indicated that the status of a victim of trafficking issued by another member state of the Convention is recognised in Bulgaria. A victim of trafficking can request special protection status, but cannot receive it automatically solely on the basis of having been given the status of a victim of trafficking in another country.

153. The statistical data provided by the Bulgarian authorities indicates that the number of identified victims of THB has been on the rise in the last three years: 283 victims identified in 2008, 319 in 2009, and 432 in 2010. As pointed out in paragraph 105, these statistics are collected by the Supreme Cassation Prosecutor's Office and are limited to persons who have taken part in criminal proceedings. There is no data about other victims of THB, e.g. persons who are reluctant to co-operate with the authorities and take part in judicial proceedings against the alleged traffickers. The Bulgarian authorities acknowledge themselves that the above-mentioned figures are merely "the tip of the iceberg" and that the problem of trafficking is much more extensive than what is shown by the statistics.

154. While acknowledging the efforts made by the Bulgarian authorities to improve the identification of victims of THB through the setting up of a National Mechanism for Referral and Support of Trafficked Persons, **GRETA concludes that the current identification system of trafficking victims is not sufficiently effective as it risks to leave out those who do not want to co-operate with the authorities and take part in judicial proceedings against the alleged traffickers**. **GRETA urges the Bulgarian authorities to address this issue.**

155. **Further, GRETA considers that the Bulgarian authorities should pay more attention to the identification of persons detained as irregular migrants and provide additional training to staff who come in contact with such persons. In this context, GRETA stresses the importance of providing potential victims of THB with good quality and independent interpreters from the early stages of the investigation about their possible condition as victims.**

b. Assistance to victims

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

157. In Bulgaria, assistance to victims of trafficking is provided for in the Anti-Trafficking Law and the Law on Assistance and Financial Compensation of Crime Victims. The procedures for the provision of such assistance are also detailed in the NRM. Pursuant to Articles 9 and 10 of the Anti-Trafficking Law, upon the victim's request, he/she can be accommodated in a shelter for a period of 10 days with the possibility of extending this period to 30 days. According to Article 25 of the Anti-Trafficking Law, the stay in a shelter can be further extended until the end of the criminal proceedings if a decision has been taken to grant "special protection status" (see paragraph 218) to a victim of THB who has declared his/her willingness to co-operate for the disclosure of the trafficking offenders.

158. According to Article 10 of the Anti-Trafficking Law, shelters for temporary accommodation should provide victims of trafficking with normal living conditions, food, medicines, and emergency medical and psychological assistance. Further, the shelters should support trafficking victims in establishing contacts with their relatives and the competent authorities. The Law on Assistance and Financial Compensation of Crime Victims also contains provisions on the assistance to victims of crimes (including victims of THB), such as medical treatment in emergency situations, psychological counselling and assistance, free legal aid and practical help. The NRM stresses that not only those victims of trafficking who have been formally identified, but also potential victims of trafficking should have immediate access to support programmes and services, following an informal identification (see paragraph 147).

159. The setting up of shelters has taken time due to problems of finding appropriate premises and securing funding from the State budget. According to information provided by the NCCTHB, a State-funded shelter was set up in Varna in 2009. At the time of GRETA's country visit to Bulgaria, this shelter was not admitting victims because it was in the process of being refurbished. A second State-run shelter, in Burgas, was set up in December 2010, but due to the insufficient budget of the NCCTHB it could not become operational. Following the provision of an additional 60 000 BGN from the State budget in July 2011 (see paragraph 27), the shelter in Burgas was scheduled for opening on 1 September 2011. The financing of both shelters is the full responsibility of the NCCTHB. In addition, GRETA was informed of a Resolution of the Deputy Prime Minister according to which the State should cover the cost of support and crisis intervention for victims who are not accommodated in State-run shelters. In 2010, 29 such requests were made and 80% of the costs were reportedly covered by the NCCTHB.

160. At the time of GRETA's country visit to Bulgaria, adult victims of trafficking were being accommodated in five operational crisis centres/shelters run by NGOs. The GRETA delegation visited two of them, intended to accommodate both female and child victims of domestic violence and female victims of trafficking. The first one, run by the NGO SOS Families at Risk and located in Varna, was being funded by the municipality through a budget delegated by the State. The second one, run by the NGO Animus Association and located in Sofia, was financed entirely by that NGO without any contribution from the State budget.

161. Both crisis centres employed qualified staff (a psychologist, social workers) and were staffed around the clock. They were located in secure, anonymous buildings which provided adequate living conditions (bedrooms with one to three beds, kitchen, living room, bathroom). Upon arrival, staff performed crisis intervention, including the provision of emergency psychological, medical, social and humanitarian help. Each victim accommodated in the centre was assigned a contact person responsible for performing risk assessment and developing an individual action plan with the involvement of the person concerned.

162. GRETA was informed that during their stay at the crisis centres, victims are offered a package of services, including legal consultations, medical examinations, and assistance to find work. Further, victims involved in criminal proceedings are provided with therapeutic care and counselling before and after attending court hearings. Depending on the risk assessment, persons accommodated in the crisis centres can be allowed to go out of the crisis centre and some of them work.

163. The crisis centre run by Animus Association is the only one of its kind in Sofia and given that it also accommodates victims of violence, its capacity of six beds is not sufficient to meet the needs of the capital city. The GRETA delegation was informed that the centre was practically always full and sometimes additional beds had to be used. The centre had accommodated 40 women victims of THB in 2008, 47 in 2009, and 34 in 2010, all of them Bulgarian nationals. As for the crisis centre run by the NGO SOS Families at Risk in Varna, it had a total capacity of 10 places and was also often operating at full capacity.

164. GRETA was informed of several problems in the provision of assistance to victims of trafficking. Most victims cannot benefit from free-of-charge health care because they have not paid contributions to the State Health Fund. As a result, NGOs running accommodation facilities for victims have to pay for any health care which is not "emergency" assistance. Further, many victims do not have identity documents and need to be issued with such. Moreover, social assistance allocations can be given only to persons with a permanent address registration, and many victims of trafficking do not qualify in this respect. The NCCTHB has indicated that it is making efforts to ensure that health care is provided to all victims and to assist NGOs when there are complicated cases.

165. When it comes to male victims of trafficking, although by law they are entitled to the same assistance measures as other victims of THB, there are currently no shelters or crisis centres accommodating men and therefore no service providers.

166. As regards child victims of trafficking, the assistance and protection measures are contained in the Law on Child Protection and its Implementing Regulations. The SACP has a co-ordinating role in the referral of child victims of trafficking. The child is accommodated in a crisis centre where he/she can remain for up to six months. The initial placement is decided by the SACP and should be confirmed by a court decision. According to the authorities, as of 1 October 2011, there were 10 crisis centres for children (accommodating different categories of children at risk), with a total capacity of 109 places. These centres are run by the Agency for Social Assistance and are financed from the State budget according to a standard allowance of 7,21 BGN (i.e. some 3,50 Euros) per place per day, the actual services being provided by the municipalities. GRETA was informed that during their stay, children receive medical care, education in a local school and group therapy aimed at improving their social skills and preventing re-trafficking. During the year following his/her departure from the centre, the child and his/her family are supervised by social workers. If necessary, the child's stay in a centre can be prolonged. Measures to assist the family can also be taken, e.g. social aid in case of low income. Foreign children victims of trafficking have the same rights, but there have been no identified cases to date.

167. The GRETA delegation did not visit a crisis centre for children during the country visit to Bulgaria, but NGOs expressed concern about inadequate material conditions in such centres and pointed out that the standard allowance is not sufficient to cover the real cost of accommodating children, and therefore the municipal authorities or donors help the centres to function. Further, GRETA's attention was drawn to the risk of re-trafficking which children face once they leave the secure environment of the crisis centre. The Bulgarian authorities have reported that in the period 2010-2015, the regional and municipal authorities are expected to develop strategies for the development of social services which should involve the setting up of 43 crisis centres for victims of violence, trafficking and other forms of exploitation.

168. When it comes to the reintegration of victims of trafficking, GRETA was informed by NGOs providing services to victims that very little was being done in practice. After a short stay in a shelter/crisis centre, victims typically return to their usual environments and risk re-trafficking. Opportunities for employment and long-term income of victims of THB are missing.

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

- **ensure that all assistance measures provided for in law are guaranteed in practice; when assistance is delegated to NGOs as service providers, the State has an obligation to provide adequate financing and ensure the quality of the services delivered by the NGOs;**
- **guarantee access to public health care for victims of trafficking;**
- **improve the system for providing assistance to child victims of trafficking, both in terms of accommodation in crisis centres and as regards medium and long-term support programmes tailored to the needs of the children;**
- **set up a sufficient number of shelters for victims of trafficking to meet the needs for accommodating such victims, and ensure that the conditions provided in the shelters are adequate;**
- **ensure that suitable accommodation is provided to male victims of trafficking and that they can fully benefit from the assistance measures provided for in law;**
- **facilitate the reintegration of victims of trafficking into society and avoid re-trafficking by providing them with vocational training and access to the labour market.**

170. GRETA understand that the procedure for the final approval of the NRM by all ministries concerned has not yet been completed. Nevertheless, the NCCTHB has already taken steps to distribute written materials explaining the NRM, in Bulgarian and English, to relevant actors (see paragraph 34). **GRETA invites the Bulgarian authorities to continue spreading knowledge of the NRM and to ensure that all relevant professionals are trained to apply it.**

c. Recovery and reflection period

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

172. The recovery and reflection period under Article 13 of the Convention is not defined explicitly under Bulgarian law. The Bulgarian authorities have made reference to Article 26 of the Anti-Trafficking Law, according to which the authorities involved in the conduct of pre-trial proceedings should promptly inform victims of THB upon their identification about the possibility to receive "special protection status" if within one month they declare their consent to collaborate with the investigation. This period can be extended to two months in the case of child victims of trafficking.

173. Pursuant to the NRM, trafficked persons should be informed as soon as possible after their identification about the possibility to benefit from a reflection period. The NRM also states that foreign nationals who are residing illegally in Bulgaria may be detained in the Busmantsi Home (see paragraph 151), but as soon as they have been identified as victims of THB, they are entitled to a 30-day reflection period and must be accommodated in a shelter or crisis centre.

174. The Bulgarian authorities have indicated that no victims of THB received a recovery and reflection period in 2008 and 2009.

175. **GRETA invites the Bulgarian authorities to review the legislation in order to ensure that the recovery and reflection period provided for in Article 13 of the Convention is specifically defined in Bulgarian law.**

176. **Further, GRETA urges the Bulgarian authorities to ensure that trafficked persons are systematically informed of the possibility to use a recovery and reflection period and are effectively granted such a period.**

d. Residence permits

177. Article 14(1) of the Convention provides for two possibilities when it comes to the issuing of residence permits to victims of THB: on the basis of their personal situation and/or their co-operation with the competent authorities in the investigation or criminal proceedings. However, EU member States have been encouraged to follow the second option in the application of EU Council Directive 2004/81/EC on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, and who co-operate with the competent authorities. In this context, it is noteworthy that Article 4 of the Directive allows member States to adopt or maintain more favourable provisions for third-country nationals who are victims of THB[10].

178. The grounds for issuing residence permits to victims of THB are envisaged in Article 25 of the Anti-Trafficking Law, pursuant to which victims of THB who have declared their willingness to collaborate for the disclosure of the trafficking offenders can receive "special protection status" for the time of the criminal proceedings. The protection measures are: (i) permission for long-term stay in the country in respect of foreign nationals; (ii) extension of the accommodation period in a shelter. The requirement of Article 26 of the Anti-Trafficking Law is that the victim of trafficking declares within a 30-day period his/her consent to collaborate in the investigation of the crime. According to Article 24, paragraph 1, point 17, of the Law on Foreigners in Bulgaria, a long-term residence permit can be granted to a foreigner who has received "special protection status" under Article 25 of the Anti-Trafficking Act. Pursuant to Article 23, paragraph 3, of the Law on Foreigners in Bulgaria, a long-term residence permit is of a duration of up to one year or of indefinite duration. If the legal proceedings have not been completed within the period of validity of the residence permit, a request for its renewal can be made until the end of the legal proceedings. After being granted a "special protection status" and a residence permit, foreign victims cannot be taken out of the country unless they so wish. One exception is envisaged under Article 28, paragraph 3, of the Anti-Trafficking Law, which concerns persons who do not possess identity documents and refuse to co-operate for their identification. In such cases, the permission for long-term stay is not issued.

[10] Certain EU member States provide for residence permits on the basis of the vulnerable position of the victim of THB, although this is sometimes limited to particular categories of persons, such as minors.

179. It is clear from the above that co-operation with the authorities is a requirement for granting a residence permit for THB victims. In this context, concern was expressed by NGOs that the identification of victims is linked to their willingness to co-operate and the one-month reflection period is not really applied (see paragraph 174).

180. According to a recent report from the European Commission to the European Parliament and the Council concerning the application of Council Directive 2004/81/EC[11], Bulgaria requires that the victims present documents such as a passport or an entrance visa as a pre-condition for the issue of the residence permit, which may impede the actual employment of the rights under the Directive. The report also states that no venues where psychological assistance is given to third-country nationals have been established in Bulgaria, and that interpretation is provided only during criminal proceedings.

181. The statistics provided by the Bulgarian authorities show that no victims of trafficking were issued a residence permit in 2008 and 2009. The Migration Directorate of the Ministry of the Interior informed the GRETA delegation of plans to develop the aspect of granting of residence permits.

182. **GRETA considers that the Bulgarian authorities should take steps to ensure that victims of THB can take full advantage of the right to be granted a temporary residence permit. GRETA also invites the Bulgarian authorities to consider granting temporary residence permits to victims who for various reasons do not co-operate with the competent authorities.**

e. Compensation and legal redress

183. 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.

184. As already indicated in paragraph 17, the Law on Assistance and Financial Compensation to Crime Victims stipulates that THB is one of the seven most serious crimes for which the State has the obligation to support and compensate victims. Pursuant to Article 6(1) of this Law, victims should be informed in writing or verbally in a language they understand of their rights. This information is to be provided by Ministry of the Interior officials or victim support organisations. Article 7(1) of the law states that the National Council for Assistance and Compensation to Victims of Crime should publish and distribute a brochure in Bulgarian, English, French and German containing information on rights.

185. The Law on Assistance and Financial Compensation to Crime Victims also provides that victims of crime are entitled to free-of-charge legal aid under the terms and procedures of the Law on Legal Aid. As regards in particular children, pursuant to Article 15(8) of the Law on Child Protection, they have the right to legal aid at all stages of the proceedings. However, according to NGOs, in practice victims of THB have no access to independent and quality legal assistance and aid, which prevents them from exercising their right to compensation.

186. The Code of Criminal Procedure determines the ways to file a compensation claim by victims. If the victim does not file a compensation claim during the criminal proceedings or thinks that the awarded compensation does not cover all inflicted damages, he/she has the right to file a new claim under the Law for Obligations and Contracts in front of a civil court. The latter claim is considered in the framework of the Code of Civil Procedure.

[11] European Commission, COM(2010) 493 final, Brussels, 15 October 2010.

187. The compensation of victims of THB is also provided for in Article 3(3) of the Law on Assistance and Financial Compensation to Crime Victims, which states that "assistance and financial compensation may be provided to persons […] who have suffered damages as a result of any of the following crimes: terrorism; murder; intentional grievous bodily harm; sexual harassment or rape resulting in serious health impairment; trafficking in people […]. "Citizens of EU member States are also entitled to financial compensation under this Law. This *pro bono* compensation may be granted after a conviction has been made or after the issue of an act by a prosecutor or court for suspension or closure of a criminal case. The victim should apply for compensation to the National Council for Assistance and Financial Compensation of Victims of Crimes (under the Ministry of Justice) within two months after the conviction or the suspension/closure of the criminal case. The amount awarded may range between 250 and 5 000 BGN.

188. Despite the existence of legal possibilities for compensation of victims of THB, this aspect remains unexplored. GRETA notes that there has been no compensation granted to victims of THB to date. There appear to be difficulties in practice for victims to receive compensation. In particular, the procedure requires them to provide copies of bills (e.g. from a pharmacy, doctor) as proof of damage. The Ministry of Justice and NGOs working with victims of trafficking are planning steps to spread information about the possibility to receive *pro bono* compensation.

189. Further, GRETA notes that the adoption in 2005 of the Law on Forfeiture of Assets Acquired from Criminal Activity has not yet had an impact, e.g. through the establishment of a fund for victim compensation or assistance. A discussion on the setting up of such a fund started in March 2011 (see paragraph 204).

190. **GRETA urges the Bulgarian authorities to increase their efforts to provide information to victims of THB about their right to compensation and the ways to access it, and to ensure that victims have effective access to legal aid in this respect**. **Further, GRETA urges the Bulgarian authorities to make State compensation accessible to all victims of THB, irrespective of their nationality and residence status.**

f. Repatriation and return of victims

191. 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.

192. As already noted in paragraph 33, a Co-ordination Mechanism for Referral, Care and Protection of Repatriated Unaccompanied Minors has been developed since 2005, under the leadership of the SACP. According to information provided by the Bulgarian authorities, 25 Bulgarian children victims of trafficking were repatriated in 2008, and 16 in 2009. No statistical information has been provided on the repatriation of adult victims of trafficking. NGOs running crisis centres have indicated that in some cases, they are contacted by partner NGOs in foreign countries and organise together the repatriation of Bulgarian victims of THB. In this context, some NGOs have expressed concern about cases in which the Bulgarian consular authorities apparently did not facilitate the return to Bulgaria of men victims of trafficking for the purpose of labour exploitation.

193. IOM Sofia, in co-operation with other IOM missions and partner organisations, runs programmes for assisted voluntary return of Bulgarian nationals to Bulgaria (mostly from EU countries) and of foreign nationals from Bulgaria to their countries of origin. As part of these programmes, victims of THB and witnesses are offered protection and reintegration assistance. Particular attention is said to be paid to child victims of trafficking.

194. The NRM adopted at the end of 2010 defines the measures and institutions responsible for the return of victims and encompasses the above-mentioned Co-ordination Mechanism for minors and the Transnational Referral Mechanism for Victims of Trafficking developed under an ICMPD project in which Bulgaria took part.

195. **GRETA considers that the Bulgarian authorities should take additional steps to develop the institutional and procedural framework for the repatriation and return of victims of THB, with due regard to their safety, dignity and protection. Particular attention should be paid to ensuring financial means for the travel of victims of THB.**

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

a. Substantive criminal law

196. 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).

197. Trafficking in human beings is subject to a single criminal offence in Bulgaria since the introduction in the Criminal Code of Section IX “Trafficking in People” under Chapter II “Crimes against the Person” (Articles 159a to 159d).

198. By virtue of the provisions of the CC, the offence of THB is punished by imprisonment for two to eight years and a fine from 3 000 to 12 000 BGN (Article 159a, paragraph 1). As noted in paragraph 62, the use of means (coercion, deception, kidnapping, illegal deprivation of liberty, abuse of status of dependency, abuse of power and promising or receiving benefits) is considered as aggravating circumstances and is punished by imprisonment from three to 10 years and a fine of from 10 000 to 20 000 BGN (Article 159a, paragraph 2). Similarly, trafficking in children is punished by imprisonment from three to 10 years and a fine of 10 000 to 20 000 BGN. Trafficking a pregnant woman for the purpose of selling her child carries a heavier penalty, from three to 15 years and a fine of from 20 000 to 50 000 BGN.

199. Further, the trafficking of a person abroad is punished by imprisonment from three to 12 years and a fine of from 10 000 to 20 000 BGN; these penalties are increased if the means of coercion, deception, kidnapping or illegal deprivation of liberty are used (imprisonment from five to 12 years and a fine from 20 000 to 50 000 BGN). Finally, if the trafficking was committed at the orders or in implementing a decision of an organised crime group, the penalties are imprisonment from five to 15 years, a fine from 20 000 to 100 000 BGN, and a possible confiscation of the perpetrator’s possessions.

200. However, two aggravating circumstances provided for in the Convention are omitted from the text of Article 159 of the CC, namely when the offence is committed by a public official in the performance of his/her duties and when it deliberately or by gross negligence endangered the life of the victim. As regards the former, the Bulgarian authorities have referred to Article 282 of the CC which covers in general criminal offences committed by public officials in violation of or failure to fulfil their duties, and which envisages penalties of up to 15 years of imprisonment. As regards "deliberately or by gross negligence endangering the life of the victim", the authorities have indicated that this would lead to crimes under Article 115 of the CC (murder), respectively Article 122 (causing death by negligence) and Article 123 (causing death through ignorance or negligent performance of professional or other legally regulated activity) GRETA wishes to point out that the purpose of the aggravating circumstance of "deliberately or by gross negligence endangering the life of the victim" is to cover situations when victims of trafficking are, for example, transported in conditions which are so bad as to endanger their lives. **GRETA concludes that this aggravating circumstance is not adequately reflected in Bulgarian law and urges the Bulgarian authorities to include it in the CC.**

201. Following amendments to the CC in April 2009, the known use of services of trafficked persons was criminalised under Article 159c. This is a welcome development.

202. As regards the criminalisation of acts relating to travel or identity documents, Article 309 of the CC criminalises the forgery of private documents and Article 319 of the CC provides for punishment for the destruction, concealing or damaging of the documents of another person. There is no special punishment for forging, destroying, concealing or damaging of documents to enable the trafficking of a person. However, the Bulgarian authorities have indicated that if in the course of the investigation there is proof that such acts have taken place to enable THB, this will be considered as a crime and there will be an accomplice link to the crime with the other persons who have engaged in THB. However, GRETA notes that these provisions do not cover all the obligations stemming out of Article 20 of the Convention, which requires the establishment of criminal offences related to procuring or providing a forged travel or identity document as well as to retaining, removing, concealing, damaging or destroying a travel or identity document, when committed intentionally and for the purpose of enabling THB. **GRETA considers that the Bulgarian authorities should review the legislation in order to fully reflect the substantive provisions under Article 20 of the Convention regarding the criminalisation of acts relating to travel or identity documents.**

203. The Bulgarian authorities have indicated that under national law, criminal responsibility is personal and cannot be sought from legal entities, which is why there are no sanctions for legal persons under the CC. However, administrative responsibility of legal persons for the crime of THB is provided for under Article 83a of the Law on Administrative Violations and Sanctions. Pursuant to this article, a legal person which has enriched or may enrich itself from a crime committed by an individual controlling, managing or representing that legal person is punishable by a property sanction of up to one million BGN, but not less than the equivalent of the benefit of a property nature, and if the benefit is not of a property nature or its amount cannot be established, a property sanction from 5 000 to 100 000 BGN. GRETA notes that the condition for attaching administrative responsibility to a legal person is enrichment or possible enrichment, which is not a part of the criminal offence of THB. **GRETA invites the Bulgarian authorities to assess the implementation of the legal provisions concerning liability of legal persons for criminal offences related to THB, in the light of the provisions on corporate liability in Article 22 of the Convention.**

204. As regards the confiscation of assets acquired through the crime of THB, Article 53(2)(b) of the CC provides that "confiscated in favour of the state shall be [..] objects acquired through the crime, if they do not have to be returned or restored. Where the acquired objects are not available or have been disposed of, an equivalent amount shall be adjudged." Further, pursuant to Article 3(1) of the Law on Forfeiture of Assets Acquired from Criminal Activity (see paragraph 189), THB is one of the crimes for which proceedings should be conducted when it is established that a person has acquired assets of substantial value which can be reasonably assumed to have been derived from criminal activity and criminal prosecution has been undertaken against such a person in connection with a criminal offence under the CC. A special commission for establishment of property acquired through criminal activity has been set up by the Government to deal with the implementation of this new law. From 2006 until mid-2011, as a result of the commission's work, the courts have passed final sentences for the forfeiture of property acquired from human trafficking at a total value of 1 562 808 BGN.[12] The commission has no competence regarding the utilisation of the property forfeited as a result of its activity, but GRETA understands that discussions are underway about the way in which the confiscated assets are to be used, in particular how a part of them can be directed to the victims (e.g. through the establishment of a fund for victim compensation or assistance). The Deputy Prime Minister and Chair of the NCCTHB reportedly support the idea to set up such a fund and further developments are expected. Considering that 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, GRETA welcomes the fact that there have been confiscations of proceeds from criminal offences related to THB in Bulgaria. GRETA 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.

205. The Bulgarian authorities have indicated that previous sentences issued by other countries to persons for the crime of THB can be taken into consideration by Bulgarian courts when determining the penalty for a new crime committed by the person concerned. The authorities have referred to Article 5 (4) of the Bulgarian Constitution, which establishes the primacy of any international treaty to which Bulgaria has acceded over any conflicting provision of the domestic legislation. Despite the fact that under the CC a previous sentence issued by another country does not provide ground for an increase in the maximum punishment for this type of crime, it can show an increased degree of social danger represented by the perpetrator and thus lead to an increase in the punishment within the framework of the actual legal provision.

b. Non-punishment of victims of THB

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

207. The Bulgarian CC does not include a specific provision which introduces Article 26 of the Convention. According to some reports, there have been isolated cases of victims of THB being sentenced for illegal border crossing, an unlawful act committed as a result of their being trafficked, which would be in contradiction with Article 26 of the Convention. The Bulgarian authorities acknowledge the need to address this issue and the 2011 National Programme envisages introducing legislative measures to this effect. In particular, it is proposed that the new CC, which is currently being drafted, exclude the prosecution of victims of trafficking under Article 279(5) of the CC (illegal crossing of the national border) when the offence is committed under coercion during the execution of the crime of THB. Further, it is proposed to amend the Law on Bulgarian Identity Documents with a view to dropping the fine imposed on victims of THB whose identity documents have been destroyed and issuing them with new Bulgarian identity documents free-of-charge.

[12] The Bulgarian authorities have provided information on the number of procedures which were opened for injunction orders on property about which there is a grounded supposition that it has been acquired through human trafficking: five in 2009, nine in 2010 and four in the first six months of 2011.

208. **GRETA urges the Bulgarian authorities to take legislative measures allowing for the possibility of not imposing penalties on victims of THB for their involvement in unlawful activities to the extent that they were compelled to do so.**

c. Investigation, prosecution and procedural law

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

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

211. In Bulgaria, a criminal investigation into trafficking in human beings is initiated *ex officio* by the prosecutor or investigative body irrespective of whether there has been a complaint from the victim and regardless of the victim's will or the withdrawal of the victim's complaint. According to Article 191 of the CCP, pre-trial proceedings shall be carried out into crimes of general nature (such as trafficking in human beings). Pre-trial proceedings shall be instituted where there is a legal reason and sufficient information about the perpetration of a crime. Pursuant to Article 208 of the CCP, the legal reasons can be: a signal about a committed crime (not only by the victim of trafficking, but also by a citizen); information about a committed crime disseminated by the media; personal reporting by a person confessing a committed crime; or immediate disclosure of a crime by the law enforcement authorities.

212. A specialised unit has been set up at the National Investigation Service for investigation of THB offences. It deals mostly with cases of transnational THB. In 2008, the NIC received 33 international investigation requests related to THB, followed by 14 in 2009 and 19 in 2010. Internal THB is investigated by the regional police departments or, if the Prosecutor's Office directs the investigation, by the regional departments of the NIS. As already noted in paragraph 37, there is an anti-trafficking unit within the Chief Directorate for Combating Organised Crime at the Ministry of the Interior. Further, a number of agreements for the setting up of JITs have been concluded or are in the process of being discussed between the police and prosecution authorities of Bulgaria and other States.

213. The special investigative techniques used in cases of trafficking in human beings are the same as those foreseen for other serious crimes. Investigators follow special guidelines on methods for investigating the crime of THB, developed by the National Investigation Service. These guidelines pay particular attention to the manner in which victims and witnesses are to be questioned, which is one of the main investigative actions. If there is a threat to the security of victims and/or their families, the investigator should immediately take protection measures (see paragraph 218). In order to avoid the traffickers influencing victims to make them change their statements, the investigator should secure the victim's testimony through a hearing before a judge; it is recommended to perform this before charging the traffickers. Other investigative actions concern determining the movement of the traffickers and victims and the flow of money acquired as a result of the exploitation. In the case of transnational trafficking, international investigative orders are issued and the services of EUROPOL and Interpol are used to request information. In this context, the Bulgarian police participates in the Analysis Work File on THB ("Phoenix") created and administrated by Europol, the purpose of which is to support EU Member States in investigations on THB cases through exchanges of data and analysis.

214. Representatives of the Ministry of the Interior met by the GRETA delegation during the visit to Bulgaria indicated that, in order to detect THB for the purpose of sexual exploitation, the police organises raids in night clubs, in particular at the sea-side in the summer and in ski resorts in the winter. However, according to the research conducted by the Bulgarian Helsinki Committee on the trafficking of Roma (see paragraph 100), the police tends to adopt a reactive approach rather than carrying out proactive investigative work. The most common explanation for this is the lack of suitable witnesses.

215. According to a study[13] published by the Fundamental Rights Agency (FRA) in 2008, a practical difficulty in the investigation of organised criminal groups involved in transnational THB is that the victims leave the country legally, in line with the visa and border crossing rules, and the crimes are committed in EU countries which are the final destination for the trafficking. It is also difficult to find evidence on cases where pregnant women leave Bulgaria and deliver their babies abroad, and where false fathers with the consent of the mothers legally register such children as their own. Trafficking of such babies cannot easily be legally defined in these cases, as they were not born and were not subject to criminal activity when their mothers crossed the border, and because there is mutual understanding and consent between the pretended fathers and the mothers, which makes police investigation difficult. Trafficking in children for the purpose of sexual exploitation, theft and begging abroad is also difficult to investigate as the children may leave Bulgaria legally and accompanied by an adult who is usually their parent, or as a minimum with the pretended certified consent of both parents. Despite these difficulties, there have been a number of successful investigations through co-operation with other countries (see paragraph 106).

216. GRETA was informed that labour inspectors do not issue work licenses to women in the entertainment business if there is a suspicion that they have been trafficked. The Bulgarian authorities have indicated that for the summer season of 2011, the Chief Labour Inspection set up mobile units of labour inspectors who performed checks for violations of the Labour Code, in particular in seaside locations. These mobile teams reportedly work at night and at weekends when violations are most common. No cases of trafficking for the purpose of labour exploitation have been identified during these checks, but there were detected cases of labour exploitation.

217. The protection of victims of human trafficking is addressed in three legal acts: the CCP, the Law on Protection of Persons at Risk in Relation to Criminal Proceedings, and the Anti-Trafficking Law. Pursuant to the Article 123 of the CCP, victims of THB who act as witnesses in criminal proceedings can be provided with personal physical protection and concealment of their identity. An amendment of the CCP from May 2010 introduced the possibility for victims of THB to be questioned as witnesses by means of a video-conference. Further, the Law on Protection of Persons at Risk in Relation to Criminal Proceedings which, *inter alia,* applies to cases of THB, provides for several forms of protection throughout the criminal proceedings: physical protection (personal and in respect of members of the family of the victim/witness and their property); temporary relocation to a safer place; change of residence, work place or educational institution; and change of identity.

218. In addition, pursuant to Article 25 of the Anti-Trafficking Law, victims of THB who have declared their willingness to collaborate for the disclosure of trafficking offenders can receive a "special protection status" for the time of the criminal proceedings. The measures for protection are: (i) permission to foreign nationals for long-term stay in the country; (ii) extension of the accommodation period in a shelter. Article 27 of the Anti-Trafficking Law sets out the procedure for receiving special protection status, by request of the victim to a prosecutor who should issue a written decision within three days. A refusal to grant special protection status may be appealed before a higher-level prosecutor whose decision is final. The special protection status may be withdrawn if the victim has renewed his/her contact with the perpetrators, if the victim's consent to co-operate with the authorities is fictitious, and in case of danger to public order and national security.

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13 FRA, Thematic Study on Child Trafficking - Bulgaria, August 2008, p. 47, quoting General Prosecutor's Office (2005), *Информация относно противозаконния трафик на български деца в чужбина* [Information on Trafficking in Bulgarian Children Abroad], p.10, http://www.prb.bg/php/document.php.

219. According to information provided by the Supreme Cassation Prosecutor's Office, in 2010, a total of six victims of THB were subject to protection, of whom five under the provisions of the CCP and one under the Anti-Trafficking Law. GRETA understands that the special protection provided under the latter law is hardly ever used (there were no cases in 2008 and 2009). However, according to the Bulgarian authorities, in recent years there has been an increase in the use of methods of threat by traffickers and the measure of special protection should become more frequently used, in parallel with the establishment of the two State shelters.

220. As regards child victims of trafficking, they are subject to special rules and protection during the investigation and are questioned only once in the course of the criminal proceedings. Special premises for questioning children have been set up at some police departments, e.g. at the Sofia Directorate of the Interior, consisting of two rooms: one especially furnished for children and the other separated by glass mirrors behind which the child can recognise the suspects. One single hearing is conducted in the presence of a judge, prosecutor and defence lawyer, and there is no need for the child to be present in the court.

221. Investigators, prosecutors and judges met during GRETA's visit to Bulgaria indicated that most of the difficulties in prosecutions for the crime of THB are related to finding sufficient proof in addition to the victim's statements. Moreover, victims are sometimes afraid or reluctant to make depositions. There are several reasons for this: threat of revenge from the perpetrators, lack of trust in the effectiveness of the police actions and fear that the victims would lose the only source of income they have access to. Once the victims agree to testify, they need to do so three times: before the police, before the prosecutors and before the court. Thus, they often meet the perpetrators several times and repeatedly experience trauma and fear. According to NGOs assisting victims of THB, it is extremely rare for protection measures such as hiding the identity of the witness to be applied during the investigation or to prevent her/him from meeting the perpetrator. Some of the NGOs have mentioned cases of victims fainting in the court room because of stress, or changing their statements several times during the same hearing before the court because of insecurity about their protection. The fact that legal proceedings against traffickers often take a long time (occasionally up to seven years) also has a dissuasive effect on victims and negatively influences their readiness to testify.

222. Reference should be made to the previously mentioned Interpretative Decision of the Supreme Court of Cassation dated 16 July 2009 (see paragraph 62) which provides answers to a number of questions put by the Prosecutor General's Office concerning contradictory court practices in cases of THB. According to it, the use of hidden identity as a form of witness protection does not constitute a procedural violation of the rights of the defendant. The decision also clarifies the issue of jurisdiction when the crime of THB is committed abroad against Bulgarian nationals (the relevant court is the one in the area where the pre-trial proceedings were concluded).

223. Despite the provisions of the Law on Legal Assistance (see paragraph 185), NGOs have expressed concern that, in practice, when victims are questioned, they are not given a lawyer and when they are children, the only person present at the questioning is an inspector from the Child Pedagogical Department (a policeman with pedagogic training who deals with the anti-social behaviour of juveniles).

224. The provisions of the CCP exclude the participation of representatives of NGOs in legal proceedings except as witnesses evaluating the health and psychological condition of victims of trafficking.

225. The 2011 National Programme contains several legislative measures aimed at improving the prosecution of trafficking cases. For example, it is proposed to drop criminal liability under Article 182b of the CC for parents who have sold their child as long as they provide evidence and co-operate in the disclosure of the crime. Further, it is envisaged to criminalise unauthorised possession and use of a debit card belonging to a third party by a person suspected of placing under dependence a pregnant woman or her relatives for the purpose of indebting them ("debt bondage").

226. According to statistics provided by the Supreme Cassation Prosecutor's Office, the number of new pre-trial proceedings opened for THB was 107 in 2008, 135 in 2009, and 134 in 2010. The number of convictions was respectively 69 in 2008, 108 in 2009 and 106 in 2010. Of the 106 convictions pronounced in 2010, 97 entered into force by the end of the year; of them, 34 were effectively enforced (including seven sentences of imprisonment from five to 10 years, three sentences of imprisonment of up to five years, and 24 sentences of imprisonment of up to three years), and 63 were conditional. Following the entry into force of the new Article 159c of the CC criminalising the use of services of a victim of THB, there were four convictions in 2009 and seven in 2010.

227. **GRETA urges the Bulgarian authorities to step up the proactive investigation of potential cases of THB in sectors such as entertainment, tourism and construction.**

228. **Further, GRETA considers that the Bulgarian authorities should prioritise the identification of gaps in the investigation procedure and the presentation of cases in court, *inter alia* with a view to ensuring an expeditious trail. In this context, GRETA wishes to stress the importance of making use of investigation techniques such as phone tapping and informants so that crimes related to THB can be investigated and prosecuted effectively.**

229. **GRETA also considers that the Bulgarian authorities should make full use of the available measures to protect victims and to prevent intimidation during the investigation and during and after the court proceedings. In this context, the Bulgarian authorities should take additional measures to ensure that victims of THB are adequately informed and assisted during the pre-trial and court proceedings.**

5. Concluding remarks

230. The legal and institutional framework for combating trafficking in human beings put in place by the Bulgarian authorities since the early 2000s is comprehensive and provides a good basis for tackling this phenomenon from a human-rights based perspective. GRETA welcomes the policy statements that THB is considered a human rights violation in Bulgaria and the steps taken to translate these statements into practice, most recently by setting up a National Mechanism for Referral and Support of Trafficked Persons.

231. That said, GRETA considers that the Bulgarian authorities should take further steps 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, from prevention to protection, prosecution and redress. This includes taking measures to strengthen the aspect of prevention amongst groups vulnerable to THB and changing negative social attitudes towards trafficking victims. The training of law enforcement officials, prosecutors, judges, social workers and other relevant professionals should stress the need to apply a human rights-based approach to action against THB on the basis of the Council of Europe Anti-Trafficking Convention and the case-law of the European Court of Human Rights.

232. The human rights-based approach to THB also requires taking further steps to secure that all victims of THB are properly identified. GRETA notes with concern that hardly any foreign national victims of THB have been identified in Bulgaria. This raises questions about the effectiveness of the existing identification procedures.

233. More should be done to empower victims of THB by enhancing their access to assistance and protection, including by ensuring adequate financing to service providers. As the official statistics show only "the tip of the iceberg", there may be an urgent need for enhanced capacity for assistance to trafficking victims. Increased provision should also be made in the national policy against THB for measures to assist the reintegration of victims of THB and prevent re-trafficking.

234. In the field of prosecution of traffickers, while the Bulgarian authorities have achieved some positive results as concerns the rate of convictions, more efforts should be made to protect and assist victims before, during and after the criminal proceedings in order to guarantee a human-rights based approach. Effective access to legal redress and compensation for victims of trafficking should also be a priority for the Bulgarian authorities.

235. GRETA invites the Bulgarian 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 Bulgarian Government for achieving the purposes of this Convention.

Appendix I: List of GRETA's proposals

Core concepts and definitions

1. GRETA notes the difference between the two definitions of trafficking in human beings under Bulgarian law as regards the use of means and invites the Bulgarian authorities to ensure that the national anti-trafficking provisions are interpreted in a manner fully conforming to the Convention.

Comprehensive approach to THB

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

- pay increased attention to preventive measures among vulnerable groups, such as the Roma community, children and disabled persons;

- include in the national policy measures to identify the scale of trafficking of foreign nationals and to provide such victims of THB with assistance in accordance with the Convention;

- ensure that gender mainstreaming is reflected in the national anti-trafficking policy;

- include in the national action measures to address THB for the purpose of removal of organs;

- provide in the national policy for increased measures to assist the reintegration of victims of THB and prevent re-trafficking;

- allocate the necessary resources to the NCCTHB to enable it to fulfil its mandate;

- include action against THB as a priority issue in the programmes and projects proposed for financing through EU Structural Funds.

3. Further, GRETA invites the Bulgarian authorities to introduce an independent evaluation of the annual National Programme as a tool for assessing the impact of the activities and for planning future policies and measures to combat THB.

Co-ordination

4. GRETA invites the Bulgarian authorities to invest in the human resources of the NCCTHB and the local commissions for combating THB so that they can effectively carry out the full range of tasks within their mandate.

5. GRETA also invites the Bulgarian authorities to further strengthen co-ordination between national and municipal authorities and NGOs active in the field of action against THB and to ensure that NGOs are involved in the planning of the national policy. This could involve the conclusion of formal agreements between state authorities and NGOs setting out the specific framework for co-operation. Particular attention should also be paid to involving Roma NGOs in the fight against THB.

Training of relevant professionals

6. GRETA invites the Bulgarian authorities to design future training programmes with a view to improving the knowledge and skills of relevant professionals which enable them to identify victims of trafficking and to assist and protect them. Training on THB-related issues should also be provided to staff working in homes for children without parental care and the local commissions for combating juvenile delinquency. During the training, particular attention should be paid to overcoming entrenched negative attitudes and prejudices vis-à-vis victims of trafficking. As regards in particular training for law enforcement officials, it should aim also at developing skills for proactive prevention work.

Data collection and research

7. GRETA considers that, for the purpose of preparing, monitoring and evaluating anti-trafficking policies, the Bulgarian authorities should develop and maintain a comprehensive and coherent statistical system on trafficking in human beings by compiling reliable statistical information from all main actors and allowing disaggregation (concerning gender, age, type of exploitation, country of origin and/or destination, etc.). This should be accompanied by all the necessary measures to respect the right of data subjects to personal data protection, including when NGOs working with victims of trafficking are asked to provide information for the national database.

8. GRETA invites the Bulgarian authorities to continue conducting and supporting research on THB-related issues as an important source of information for future policy measures in the field of action against THB. Areas where research is needed in order to shed more light on the extent of the problem of THB include trafficking of foreign nationals and trafficking for the purpose of labour exploitation in Bulgaria.

International co-operation

9. GRETA invites the Bulgarian authorities to continue exploring possibilities for international co-operation in the fields of protecting and assisting victims of THB, and the investigation and prosecution of trafficking cases.

Awareness raising and education

10. GRETA considers that future actions in the area of awareness raising should be designed in the light of the assessment of previous measures and be focused on the needs identified. GRETA urges the Bulgarian authorities to develop the aspect of prevention in the Roma community through specific campaigns which are not based on written materials. Increased emphasis should also be placed on changing social attitudes towards victims. The success of the efforts will depend on efficient data collection, adequate funding and regular evaluation.

Social, economic and other initiatives for groups vulnerable to THB

11. GRETA urges the Bulgarian authorities to strengthen the aspect of prevention through social and economic empowerment measures for groups vulnerable to THB. GRETA concludes that there is a need for a comprehensive, co-ordinated and adapted approach towards the problems in the Roma community, involving all relevant institutions and aiming at improving their integration and access to education, health care and social assistance as an ultimate prevention measure against THB. In this context, GRETA encourages the Bulgarian authorities to include in the national strategy for the integration of Roma in society measures to prevent the trafficking of Roma and to provide victims with assistance and protection.

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

Measures to discourage demand

13. GRETA invites the Bulgarian authorities to continues their efforts to discourage demand for services from trafficked persons, targeting in particular the most common forms of THB in the country.

Border measures to prevent THB and measures to enable legal migration

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

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

15. GRETA invites the Bulgarian authorities to consider carrying out information campaigns to alert potential foreign national victims of THB-related risks, in co-operation with countries of origin.

Identification of victims of THB

16. GRETA encourages the Bulgarian authorities to ensure that the legal and institutional changes introduced by the new State policy in the area of juvenile justice lead to improved prevention, identification and assistance of child victims of trafficking.

17. GRETA concludes that the current identification system of trafficking victims is not sufficiently effective as it risks to leave out those who do not want to co-operate with the authorities and take part in judicial proceedings against the alleged traffickers. GRETA urges the Bulgarian authorities to address this issue.

18. GRETA considers that the Bulgarian authorities should pay more attention to the identification of persons detained as irregular migrants and provide additional training of staff. In this context, GRETA stresses the importance of good quality and independent interpreters for potential victims of THB from the early stages of the investigation about their possible condition as victims.

Assistance to victims

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

- ensure that all assistance measures provided for in law are guaranteed in practice; when assistance is delegated to NGOs as service providers, the State has an obligation to provide adequate financing and ensure the quality of the services delivered by the NGOs;
- guarantee access to public health care for victims of trafficking;
- improve the system for providing assistance to child victims of trafficking, both in terms of accommodation in crisis centres and as regards medium and long-term support programmes tailored to the needs of the children;
- set up a sufficient number of shelters for victims of trafficking to meet the needs for accommodating such victims, and ensure that the conditions provided in the shelters are adequate;
- ensure that suitable accommodation is provided to male victims of trafficking and that they can fully benefit from the assistance measures provided for in law;
- facilitate the reintegration of victims of trafficking into society and avoid re-trafficking by providing them with vocational training and access to the labour market.

20. GRETA invites the Bulgarian authorities to continue spreading knowledge of the NRM and to ensure that all relevant professionals are trained to apply it.

Recovery and reflection period

21. GRETA invites the Bulgarian authorities to review the legislation in order to ensure that the recovery and reflection period provided for in Article 13 of the Convention is specifically defined in Bulgarian law.

22. Further, GRETA urges the Bulgarian authorities to ensure that trafficked persons are systematically informed of the possibility to use a recovery and reflection period and are effectively granted such a period.

Residence permits

23. GRETA considers that the Bulgarian authorities should take steps to ensure that victims of THB can take full advantage of the right to be granted a temporary residence permit. GRETA also invites the Bulgarian authorities to consider granting temporary residence permits to victims who for various reasons do not co-operate with the competent authorities.

Compensation and legal redress

24. GRETA urges the Bulgarian authorities to increase their efforts to provide information to victims of THB about their right to compensation and the ways to access it, and to ensure that victims have effective access to legal aid in this respect.

25. Further, GRETA urges the Bulgarian authorities to make State compensation accessible to all victims of THB, irrespective of their nationality and residence status.

Repatriation and return of victims

26. GRETA considers that the Bulgarian authorities should take additional steps to develop the institutional and procedural framework for the repatriation and return of victims of THB, with due regard to their safety, dignity and protection. Particular attention should be paid to ensuring financial means for the travel of victims of THB.

Substantive criminal law

27. GRETA urges the Bulgarian authorities to include the aggravating circumstance of “deliberately or by gross negligence endangering the life of the victim” in the CC.

28. GRETA considers that the Bulgarian authorities should review the legislation in order to fully reflect the substantive provisions under Article 20 of the Convention regarding the criminalisation of acts relating to travel or identity documents.

29. GRETA invites the Bulgarian authorities to assess the implementation of the legal provisions concerning liability of legal persons for criminal offences related to THB, in the light of the provisions on corporate liability in Article 22 of the Convention.

Non-punishment of victims of THB

30. GRETA urges the Bulgarian authorities to take legislative measures allowing for the possibility of not imposing penalties on victims of THB for their involvement in unlawful activities to the extent that they were compelled to do so.

Investigation, prosecution and procedural law

31. GRETA urges the Bulgarian authorities to step up the proactive investigation of potential cases of THB in sectors such as entertainment, tourism and construction.

32. Further, GRETA considers that the Bulgarian authorities should prioritise the identification of gaps in the investigation procedure and the presentation of cases in court, *inter alia* with a view to ensuring an expeditious trail. In this context, GRETA wishes to stress the importance of making use of investigation techniques such as phone tapping and informants so that crimes related to THB can be investigated and prosecuted effectively.

33. GRETA also considers that the Bulgarian authorities should make full use of the available measures to protect victims and to prevent intimidation during the investigation and during and after the court proceedings. In this context, the Bulgarian authorities should take additional measures to ensure that victims of THB are adequately informed and assisted during the pre-trial and court proceedings.

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

Public bodies

- Mr Tsvetan Tsvetanov, Deputy Prime Minister, Minister of the Interior and Chair of the National Commission for Combating Trafficking in Human Beings
- Mr Konstantin Penchev, Ombudsman of the Republic of Bulgaria
- Ministry of the Interior
- Ministry of Education, Youth and Science
- Ministry of Health
- Ministry of Justice
- Ministry of Foreign Affairs
- Ministry of Labour and Social Policy
- National Commission for Combating Trafficking in Human Beings
- National Investigation Service
- State Agency for Child Protection
- Agency for Social Support
- State Agency for Refugees
- Supreme Court of Cassation
- Prosecutor General's Office
- Local Commission for Combating Trafficking in Human Beings, Varna

Intergovernmental organisations

- International Organisation for Migration

Non-governmental organisations

- Animus Association/La Strada
- Nadya Centre
- Foundation Partners Bulgaria
- Bulgarian Helsinki Committee
- Bulgarian Gender Research Foundation
- Caritas Rousse
- SOS Families at risk, Varna

Government's comments

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

GRETA engaged in a dialogue with the authorities of Bulgaria 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 Bulgarian authorities on 14 October and invited them to submit any final comments within one month. The Bulgarian authorities' comments, submitted on 14 November 2011, are reproduced hereafter.

REPUBLIC OF BULGARIA
COUNCIL OF MINISTERS
NATIONAL COMMISSION FOR COMBATING TRAFFICKING IN HUMAN BEINGS

№ ТХ-02-368
11.11. 2011

By email to: Petya.NESTOROVA@coe.int
Ref. No.: DG-HL/PN/gm

TO
MRS. PETYA NESTOROVA
EXECUTIVE SECRETARY OF THE
COUNCIL OF EUROPE CONVENTION
ON ACTION AGAINST TRAFFICKING IN
HUMAN BEINGS

DEAR MRS. NESTOROVA,

In pursuance of Article 38, paragraph 6, of the Council of Europe Convention on Action against Trafficking in Human Beings, on October 14, 2011 Bulgaria received the final report drawn up by the Group of Experts on Action against Trafficking in Human Beings (GRETA), containing conclusions on the measures taken by Bulgaria in implementing the provisions of the Convention, which was adopted by GRETA at its 11th meeting.

With respect to Article 38, paragraph 6, of the Convention and GRETA's Rules of procedure for evaluating implementation of the Convention, Bulgaria submits with this letter the comments on the final report.

Yours sincerely,

DENITSA BOEVA
STATE EXPERT AT NCCTHB AND
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TO LIAISE WITH GRETA

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Introduction

The Bulgarian Government would like to assure GRETA and the Secretariat of the Council of Europe Convention on Action against Trafficking in Human Beings that combating human trafficking is one of the priorities in the country's actions against crimes against the personality and organized crime.

For the period since the introduction of the crime "Human trafficking" in the Criminal Code of the country (2002) Bulgaria shows a constant and sustainable development of the anti-trafficking policies towards keeping legislation up-to-date with international and European standards, increasing penalties, protecting and caring for victims. The institutional framework is being established as to the requirements and recommendations. The fact that the Bulgarian legislator included in the definition of human trafficking the "irrelevance of the consent of the victim" is giving the opportunity for a larger scale of rights' approach to be tailored to victims in order for them to receive services and rights, and wider opportunities for the law-enforcement to initiate investigation.

Bulgaria would like to stress out that in the current period of financial and economic crisis, the legal and institutional frameworks for combating trafficking and human beings and protection of the victims remain intact, and continue functioning at full capacity. In the light of the victim-centered approach, Bulgaria would like to draw to GRETA's attention the fact that no shelters or crisis centers were closed. Just the opposite: in September 2011 a second state-run shelter for adult victims of trafficking became fully operational, and a plan for opening crisis centers for children victims are on the agenda.

On the aspect of criminal justice, it is noteworthy the rise of the number of victims (316 in 2009, 432 in 2010, also noted by GRETA and 313 – up to June 2011) who are all witness in the cases against perpetrators. Bulgaria would like to put an accent of the fact that a growing trust in the institutions among victims is noted. Bulgaria supports the idea of establishing a special fund for victims of crimes including victims of trafficking and, moreover, this idea is currently being under discussion and procedures.

In the times of financial difficulty both for the institutions and civil society, Bulgaria understands and supports more than ever the close cooperation between actors for the effective work against human trafficking and protection of the victims. In this sense the work of the National Commission for Combating Trafficking in Human Beings encompasses close collaboration with international actors, national institutions and NGOs.

All that said, Bulgaria would like to express its will to improve further the country's actions against trafficking in human beings having in mind the recommendations made by GRETA. However, in the light of the above mentioned and the national peculiarities of the processes of human trafficking, Bulgaria considers that in this difficult period for Europe, some of the recommendations of GRETA are too thorough and demanding.

Having received comments on the final report by Ministry of Interior, Ministry of Labour and Social Policy, State Agency for Child Protection, Agency for Social Assistance, National Investigative Service, Supreme Prosecution of Cassation, Commission for establishing of property acquired from criminal activity and the National Commission for Combating Trafficking in Human Beings, Bulgaria would like to put to the attention of GRETA the following notes and questions following the paragraphs of the report:

Final comments of Bulgaria on the "Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Bulgaria"

Executive summary:
Page 7:
Paragraph 2, line 3: Please, insert "for 2011" after the word "increased".

Paragraph 3: Bulgarian authorities are not aware of the large scale of the problem of unregistered newborns as imposed by this report at risk of trafficking. We would like GRETA to provide us with the information at their disposal (numbers and specific cases) that would be useful to develop necessary actions to prevent human trafficking by prevention of not registering children at birth.

Paragraph 4: Ministry of Interior "does not agree with the statement made by GRETA that there are no identification criteria for identifying children-victims of trafficking. There are very clear criteria which police, border police, liaison officers and social workers are using to identify children victims of trafficking (as stated by GRETA in paragraphs 143 and 145). For all cases of children-victims of trafficking the Coordination mechanism for referral of cases of unaccompanied children and children-victims of trafficking returning from abroad which was adopted in 2005 is implemented. The responsible institutions are the State Agency for Child Protection, Ministry of Foreign Affairs, Ministry of Interior, Ministry of Labour and Social Policy and the Agency for Social Assistance. A special "Guide for identification of victims of trafficking in human beings" was developed by Ministry of Interior, National Commission for Combating THB, IOM and foundation "Animus Association" comprising different indicators for identification of victims of trafficking for different types of exploitation. These indicators and criteria give the opportunity for all institutions and organizations timely to recognize and identify victims of trafficking.

For the purpose of increasing qualification and sensitivity of law-enforcement and other actors, during the years a lot of trainings were conducted with special attention to victims' identification. What is more, leading world and European practices were adopted in the curriculum of the National Justice Institute, Ministry of Interior Academy and MFA Diplomatic Institute.

Paragraph 5: The National Commission for Combating Trafficking in Human Beings would like to stress upon the fact that the delegated functions for managing the state shelters for adults are currently signed under mutual agreements with NGOs that are managing them. Expenses are calculated on the basis of all needs (presented by the NGOs) of the victims and whenever any additional costs appear, the National Commission covers them. Related to the allowance for the crisis centers for children victims of trafficking, according to information of State Agency for Social Assistance, it is the third highest such allowance in the country.

With respect to GRETA's recommendation for the state to open more shelters for victims, Bulgaria would like to focus GRETA's attention on the information by the Agency for Social Assistance that apart from the existing number of crisis centers for children victims of trafficking, another 42 will be opened in the coming five years. As for shelters for adult victims of human trafficking, the National Commission for Combating Trafficking in Human Beings would like GRETA to have in mind the information in the introduction of this document, i.e. in the current period of financial and economic crisis, the legal and institutional frameworks for combating trafficking and human beings and protection of the victims remain intact, and continue functioning at full capacity. In the light of the victim-centered approach, Bulgaria would like to draw to GRETA's attention the fact that no shelters or crisis centers were closed. Just the opposite: in September 2011 a second state-run shelter for adult victims of trafficking became fully operational.

Bulgaria would like GRETA to be aware that in practice most victims prefer to go back to their homes. Whenever the two shelters prove to be full of capacity, as it is not currently, the National Commission will definitely consider the option of opening a third shelter.

Page 8:
Paragraph 3: Related to the GRETA's recommendation on not imposing penalties on victims of trafficking, Bulgaria accepts it and would like to stress upon the fact that this measure is already being considered by authorities and is most probably going to be reflected with all planned legislative changes, including those related to 2011/36/EU directive.

Paragraph 4: The Supreme Prosecutor's Office of Cassation considers the recommendation to priorities economy sectors for investigations as inappropriate. Whenever there is information, no matter the economy or other sector, human trafficking will always be investigated (this comments shall also relate to paragraph 225 of the report).

Considering GRETA's recommendation on the setting up of proactive investigations, Ministry of Interior points out that Bulgaria is currently a leading country with highest number of registered JITs in Eurojust (currently 3 with the Netherlands, 2 with UK; and preparing 1 with Germany and 1 with France). Apart from this, Bulgaria is conducting a joint investigation with Macedonia (under SECI centre).

Page 10: *Para 10 and 11:* Supreme Prosecution of Cassation's submitted data with these comments is that pregnant women victims are 2007-1; 2008-0; 2009-6, 2010-7 and up to June 2011-12. The cases of trafficking for the purpose of organ removal are 6 for the period 2002-2011.

Page 12: *Para 21:* The report of the activities of the National Commission for Combating Trafficking in Human Beings for 2010 is already published on the internet site of the Commission: **www.antitraffic.government.bg**.

Page 13: *Para 30:* With respect to the setting up of more local commissions in 2011 and the statement that one more is to be established, the National Commission would like to state that under the National Programme for 2011, Section 1, p. 1 "Establishment of two new Local Commissions for Combating Trafficking in Human Beings (LCCTHB) in the cities of Rousse and Plovdiv", this activity has been already achieved and cited by GRETA in the report, and no more local commissions are planned to be opened in 2011.

Page 14: *Para 31:* The State Agency for Child Protection notes that the National Plan was adopted with decision of Council of Ministers No. 614 / 05.09.2003.

Page 20: *Para 64 and 65:* The Supreme Prosecution of Cassation comments: "We do not understand GRETA' statement in 64 "GRETA takes note of the above-mentioned explanations of the Bulgarian authorities, which however would not apply to extraditions from/ to non-EU countries." So far there were no cases of refusal for extradition by a state non-member of the EU, and respectively European arrest warrant (EAW) from by EU member-state on the grounds of human trafficking, so it cannot be accepted as correct the following phrase "would not apply to extraditions from/to non-EU countries". It is possible that in practice there would be no such cases due to the simple reason that for international trafficking usually the qualification of Art. 159b p.2 of the CC that the means are used (threat, violence and most often – a promise for real estate enrichment). It is not clear to us how this conclusion was drawn given the real facts that there was no single case of refusal of EAW for human trafficking."

Page 21: *Para 71:* Please, note the comment for *Paragraph 3, page 2 of the Executive summary* of the report.

Page 22:
Para 72: Bulgaria considers the statement of GRETA that trafficking of foreign nationals is underdeveloped aspect in the country's policy. Bulgaria is mainly a country of origin for victims of trafficking. For that reason, case law and experience with cases of foreign nationals is minimal. However, Bulgaria develops its policies targeting also such possible cases (the Combating Trafficking in Human Beings Act, the Law for foreigners in Bulgaria, the National referral mechanism, the Coordination mechanism for referral of children – all include specific measures for foreign victims of human trafficking both adult and children).

Para 74: Ministry of Interior and the Supreme Prosecution of Cassation comment on this paragraph that "Journalists' investigation cannot function as a basis for the experts of GRETA to draw conclusions. Moreover, under the Bulgarian CPC media articles are lawful reason for initiating a criminal investigation. That means that in all cases of such journalist specific information – criminal proceedings have been initiated. It is not professional and correct to draw conclusions by comments and conclusion made by the media without concrete cases."

Para 76: The National Commission for Combating Trafficking in Human Beings would like to inform GRETA that the second shelter in Burgas is already open and fully operational.

Para 77: The National Commission fully understands the importance of external assessment of the National Program and accepts this recommendation of GRETA's. Having said that, the Commission would like to notify GRETA that it is awaiting a response by Ministry of Finance for possible financing of a project with the Dutch National Rapporteur on developing evaluation of the national anti-trafficking policies (under Operative Programme "Administrative Capacity").

Page 24:
Para 83: To participate in the permanent working group, the National Commission for Combating Trafficking in Human Beings has invited 7 (seven) international and non-governmental organizations. They represent a multidisciplinary excerpt of the expertise that the NGO sector in Bulgaria possesses (victims' protection, accommodation and legal consultation, prevention, research, policy development, international exposure, national representation via national branches)[14]. Currently, NGOs represent 32% of the composition of the working group. The National Commission would like to state that it works with more than 20 organizations in the country on all aspects of the fight against human trafficking on a daily basis.

Para 84: Related to GRETA's statement that "NGOs develop and implement their projects on their own", NCCTHB would like to make clear that the Commission supports NGOs in their activities and has not turned away any proposal for cooperation and partnership. The NCCTHB can provide a large number of projects for which it is partnering to NGOs for their projects. No intervention of the state authorities in NGOs projects without their proposal or agreement can be considered appropriate. As separate legal entities they naturally implement their projects. NCCTHB would appreciate clarification from GRETA on what is imposed by this statement.

Page 25: *Para 95:* With respect to GRETA's recommendation for Bulgaria to develop training modules and programmes, GRETA should bear in mind the provided before information that this has already been done. Bulgaria clearly understands the importance of training and has conducted, is conducting and is going to conduct hundreds of trainings in different formats: strictly for law-enforcement, for example, or in multidisciplinary groups, both theoretic and interactive, both in the country and abroad, both financed under projects or the state budget.

[14] IOM, ICMPD, foundation "Animus association", "Centre Nadia" foundation, Bulgarian Gender Research Foundation, Risk Monitor and Centre for Democracy Research

Such training programmes are developed at the Academy of Ministry of Interior and National Investigation Service (for law-enforcement and prosecutors), at the National Justice Institute (for magistrates), at the Diplomatic Institute of MFA (for diplomats), at the National Commission (for social workers, teachers, NGOs, peers). Apart from that, NGOs also participate or conduct numerous trainings targeted at law-enforcement, magistrates, social workers, NGOs, etc. Numerous books and guidelines were developed for this purpose including a "Guide with indicators for identification of victims of trafficking" which was distributed to relevant actors throughout the country.

Page 26: *Para 97:* The Supreme Prosecution of Cassation comments that the unified information system for combating crime is being developed and financially supported by the Ministry of Justice and the Supreme Justice Council.[15]

Para 100: The Supreme Prosecution of Cassation comments that the research of the Helsinki Committee in five Roma communities cannot be a basis for making the conclusion in the report that "police and prosecution do not collect information about potential victims/ perpetrators" which is actually out of the responsibilities of the police and the prosecution. There is an unambiguous provision in the Ministry of Interior Act, art. 157 (1) that "It shall be prohibited to collect information about citizens solely on the basis of race or ethnic origin, political, religious or philosophical beliefs, membership in political parties, organizations, religious, philosophical, political or trade union societies, or regarding the health condition or sexual life." That should also be well-known by the Committee.

Ministry of Interior comments that "It is too negative and ungrounded because this statement is not based on statistical data but on statements of NGOs that are not verified. The lack of statistical information on the basis of ethnic origin is a fact and if it existed that would be ground for organizations to criticize the State for ethnic discrimination. In connection to international trafficking, the majority of the victims are not from Roma origin. According to the Ministry's opinion, to officially make this statement, a thorough research should be made."

Page 27: *Para 102:* NCCTHB would like to point out that this recommendation is covering an activity that is already taking place in the country. The database for victims of trafficking (potential and formally identified) that NCCTHB manages contains more than 50 indicators. They cover the social background of the victims, the recruiter and the recruitment, the transportation process, the exploitation phase, the return, accommodation, assistance and reintegration, the criminal proceedings and compensation files. In 2011, NCCTHB especially started the procedure for gathering information, flawlessly, from NGOs.

Para 106: For more information on the JITs that currently Bulgaria executes, please, refer to Bulgaria's comments for page 8, paragraph 4 of this report.

Page 30*: Para 116:* The State Agency for Child Protection would like GRETA to take into consideration the following information: "The national telephone line for children uses the harmonized European number 116 111 and grants free for the callers 24-hour services on the territory of the country. The line gives the opportunity for consultation, information and assistance to children, encompassing a larger scale of their problems. Target groups to the line are children, their parents, specialists working with kids, as well as all citizens who would like to signalize for a child at risk or who would like to receive consultation for their problems related to children.

The national telephone line started its activities on 14.10.2009. Up to April 2010 the number 116 111 functioned in parallel with the number 0800 19 100 which was a pilot project since 2007 of UNICEF and foundation "Centre Nadia". After the end of the project in April 2009, the management of the line was directed to the State Agency for Child Protection for the purpose of introducing the harmonized 116 111. Since 01.05.2010 only 116 111 is functioning and its operation is delegated to foundation "Animus Association".

[15] Reference can also be made to the Regulations for the unified information system for combating crime.

Para 126: Please, refer to the comments on the Executive summary, p. 7, para 3 on the current report.

Page 32*: para 128:* Bulgaria would like to present to GRETA's attention the National Strategy for integration of Roma and other vulnerable ethnic groups/ communities in similar situation in Bulgaria (2012-2020)[16]. The vision of the document is overcoming the existing negative social- and economic characteristics, full-of-value social inclusion and future prosperity in the society. The purpose of the strategy is creation of conditions for equal integration in the society and economy through creation of equal opportunities and access to rights, goods, services, participation in all public spheres and improvement of the quality of life in the principles of equality and non-discrimination. The priorities enlisted are education, healthcare, living conditions, employment, supremacy of law and non-discrimination, culture.

Para 129: Please, refer to the comments on the Executive summary, p. 7, para 3 on the current report.

Page 33*: Para 133:* Ministry of Interior adds to the information presented that in 2010, there are also established mixed law-enforcement teams at the Bulgarian-Greek and the Bulgarian-Macedonian borders that have the opportunity for quick exchange of information and data as a measure for counteraction of illegal migration, human smuggling and human trafficking.

Para 140 and 141: Bulgaria would like GRETA to take into account the comments under Executive summary, page 7, paragraph 4 and page 25, para 95.

Page 35: *Para 148:* The State Agency for Child Protection would like GRETA to precise the text regarding the coordination of child-victims of trafficking cases by SACP on one side, and on the other side the obligations of SACP for notification of other partners: "According to paragraph V, phase 1: Receiving signals for unaccompanied children or children victims of trafficking abroad and their repatriation to Bulgaria, p. 1.2 of the Coordination mechanism, SACP has the following powers: Ensures the coordination of the institutions responsible for repatriation, meeting and protecting children (MFA, MoI, ASA, and directorate Social Assistance), and for this purpose:

- notifies in written directorate Social Assistance (copying ASA) that is responsible for the permanent address registration of the child. SACP gives the available information for the case for the purpose of risk assessment of the family and social environment, and assessment of the need for accommodation of the child when brought back in the country;
- notifies in written (depending on the case) the following structures of MoI: Border police, Criminal Police and Combating organized Crime Directorate."

Page 36: *Para 149:* The child protection units are subordinated to the Agency for Social Assistance, not to SACP. The Chairman of SACP can only give methodological guidance to the units.
para 153: Bulgaria invites GRETA to consider the comments made for para 102.

Page 37: *Para 154:* NCCTHB would like to stress the fact that the Commission adopts a victim-centered approach when providing assistance to victims of trafficking. That shall mean that all services for accommodation and assistance that the Commission grants are open to victims of trafficking no matter if they cooperate or not with the judicial authorities. By providing this option, the Commission gives victims the opportunity to recover and think whether they would like to cooperate in the future (reflection period). Denial to cooperate does not mean exclusion from the supporting programmes.

para 159: NCCTHB would like to notify GRETA that the two state shelters for victims of trafficking in Varna and Burgas are fully operational and accommodate victims.

[16] The working document can be downloaded on http://www.nccedi.government.bg/page.php?category=125&id=1610

Page 38: *para 166:* SACP would like to clarify that the accommodation of children victims of trafficking in the crisis centers is not decided by or executed by the Chairman of the SACP. Under art. 20, para. 4, p.2 of the Regulations for the implementation of the Child Protection Act "In cases when protection should be done towards children victims of violence or human trafficking, the Director of the directorate "Social assistance" grants an order for accommodation of the child at a crisis centre or other types of social services, and obligatory issues recommendations for the parents in view of best protection of the rights of the child." The order of the Director of the directorate "Social assistance" is ensured by a court decision.

Page 39, 41: *c) Recovery and reflection period*
In the light of the above comments on protection of victims and their accommodation at shelter, the reflection period is guaranteed in the Bulgarian legislation and in practice. It is true that it is not documented formally by any written forms, but that shall not mean it is not granted to victims. Victims are not denied assistance based on their refusal to cooperate to authorities.

Para 179: Bulgaria would like to stress upon the fact that residence permits shall apply only to foreign victims of trafficking when they need to cooperate with authorities. Bulgarian victims do not need to express their willingness to cooperate with authorities as a prerequisite for protection.

Page 42*: para 188:* Ministry of Justice and NGOs have already disseminated information on the opportunity for compensation of victims. Brochures in four languages were distributed in all courthouses in the country, police departments, NCCTHB and all local commission for combating trafficking in human beings, NGOs in the country. Bulgaria understands the importance of sustainable provision of information to citizens and this activity is ongoing.

Para 189 and para 204 (page 45): The Commission for establishing of property acquired from criminal activity (CEPACA) would like to provide GRETA with additional information.

Practice and statistic concerning the application of art.3, par.1, subpart. 4 under the Law of Deprivation in Favor of the State of Property Acquired from Criminal Activity (LDFSPACA).

As early as 2005, a new Law of Deprivation in Favor of the State of Property Acquired from Criminal Activity entered into force (LDFSPACA). Articles 159a to 159c, contained the crimes related to human trafficking pursuant to the Penal Code, are expressly mentioned by the legislator as falling into the scope of this law. The Republic of Bulgaria has established the necessary civil legal framework to effectively freeze, seize and criminal assets forfeiture in the favor of the State of property acquired through human trafficking.

In order to assure the efficiency of the tracing, the freezing and the forfeiting of the above mentioned wealth, the LDFSPACA created the Commission for establishing of property acquired from criminal activity (CEPACA). This independent state authority is in charge of the investigation of the property of persons against whom a criminal proceeding for one of the crimes covered by this law has begun. If this property is of significant value and if it could be reasonably assumed that it is, directly or indirectly, linked to the crimes, the Commission comes up with a decision to take into court a reasoned motion for criminal assets forfeiture in favor of the State.

For the period of 01.06.2011 till now, CEPACA has initiated 2 procedures for imposing of injunction orders of property acquired through human trafficking (art. 159 of the Penal Code) with a total value 18 003 BGN.

The trend of criminal assets forfeiture of offenders, under art. 159 of the Penal Code is retained, from the beginning of the year (2011) till now, after the cassation appeal the courts have issued final sentences for the forfeiture of property acquired from human trafficking at a total value of 917 521 BGN, approximate 1 000 000 BGN.

Cooperation between national authorities
Concerning the cooperation between the Commission and other relevant national authorities, the Law of Deprivation in Favor of the State of Property Acquired from Criminal Activity entered into force stipulates:
"Art.16. (1) The information necessary in connection with the check under this law shall be concede with priority to the bodies for establishing of property, acquired from criminal activity, the Agency for state internal financial control, the Audit Office, the Privatization Agency, the Agency for post-privatization control, Agency Customs, the tax administration. The services for entering, the regional courts keeping the commercial registers and the respective services of the municipal and the regional administration.
(2) The bodies for establishing of property, acquired from criminal activity, the bodies of the Ministry of Interior, the investigation and the prosecutor's office shall implement joint activities for achieving the objectives of this law.
(3) The implementing of the interaction of par.2 shall be determined with joint instruction of the Commission, the Minister of Finance, the Minister of Interior, the Chief prosecutor and the director of the National Investigation Service.
Art. 20. Officials who within their service come to know circumstances about the direct or indirect acquisition of property from criminal activity shall be obliged to announce this to the bodies of art. 12, par. 9 and concede to them the data which they dispose.
Art. 21. (1) The bodies of the pre-trial procedures shall notify immediately the directors of the respective territorial directorates about each case of started penal prosecution for crime under art. 3, par.1. In the notification shall be pointed out the person against whom penal prosecution has started the crime and the period of criminal activity as well as the whole information about the property which this person disposed.
(2) The bodies of the pre-trial procedures shall be also obliged to notify the directors of the respective territorial directorates upon the existence of the prerequisites of art. 3, par.2. Enacting these texts, CEPACA has established sustainable interconnection with various bodies from the executive and the judiciary. In 2006an agreement between CEPACA and the Registry Agency (Ministry of Justice) was reached and signed. In the same vein, the Instruction № 1 of 25/09/2006 was adopted to govern the Commission's work with the Ministry of Interior, the Ministry of Finance, the Prosecutor's Office and the National Investigation Service. Thus, the needed institutional framework between public authorities and officials, whose powers and duties are relevant to the work of the Commission, was built.

Explanation of the procedure of collecting and analyzing the information referred to above
The information about the activities of the Commission and its detailed analysis is published in the annual report of CEPACA which is presented to the National Assembly pursuant to the article 13, par. 4 of the LDFSPACA. These reports are the major source of the information and data mentioned in the above points.

Para 192: SACP provides GRETA with data for 2010 for repatriated children under the Coordination mechanism: 48. 15 of them were victims of sexual violence and exploitation, 2 of babies' sale. 34 were girls, 14 boys. The Chairman of SACP proposed 31 measures under art. 76a of the Bulgarian Personal Identity Documents Act.

Page 44: *para 203:* Bulgaria accepts GRETA's recommendation but would like GRETA to know that "it is absurd to pose criminal liability for legal persons because this would contradict a basic principle of Bulgarian penalty law.[17]"

Page 46: para 208: Please, refer to the comments made on page 8, paragraph 3.

[17] Supreme Prosecution of Cassation

c. Investigation, prosecution and procedural law, Para 211 and 226: Ministry of Interior comments that under this chapter ending with a recommendation, GRETA has not taken into account that in Bulgaria the following special investigative techniques are widely used: special intelligence means[18], work with informators, under-cover agents. Special investigative techniques under the Act are: **Art 2:** (1) For the purposes of this Act "Special Intelligence Means" shall be the technical means and the operative methods for their application, which are used for preparing pieces of material evidence, i.e. films, video records, audio records, photographs, and marked items.
(2) "Technical Means" shall be electronic devices, mechanical devices, and substances, which are used to record the activities of monitored persons and facilities.
(3) (Supplemented, SG No. 86/2005) "Operative Methods" shall be observation, tapping, surveillance, penetration, marking, and interception of mail and computerised information, controlled delivery, trusted transaction and investigation through an undercover officer, which are used in the course of applying the technical means referred to in Paragraph (2) above.

GRETA has not taken in account also the extensive participation of Bulgaria in JITs, and also that the number of victims cooperating with authorities has increased (313 up to June 2011, 432 in 2010, 316 in 2009).

Page 48: *para 223:* The Supreme Prosecution of Cassation "considers conclusions as incorrect. All victims of trafficking who are questioned as witnesses can consult a lawyer if they wish (art. 122, para 2 of the CPC). The so-called obligatory legal protection is considered only for defendants who are accused of the most severe crimes.

The conclusion that the only person present at the questioning of a child is an inspector from the Child Pedagogical Department. Under art. 140 of the CPC "Questioning of persons under 14 and under 18 years of age, is done obligatory in the presence of a pedagogue or psychologist, and if necessary – in the presence of a parent or a guardian." Since the amendments of 2008, questioning of children can be done via video-conference."

The Agency for Social Assistance adds to the comment that the social-psychological work with children starts at the entry point of the country when the child is referred to Bulgaria. The child is met by an inspector from directorate "Social Assistance" who participates in the first conversation with the child and ensures that his/ her rights are not violated.

Page 49: *Paras 227 and 228* were commented above.

Para 232: The Supreme Prosecution of Cassation comments that "Bulgaria is predominantly a country of origin for victims of trafficking. The cases of foreign victims identified in Bulgaria are exceptions. The made by GRETA conclusion that the low number of foreign victims of trafficking "raises questions about the effectiveness of the existing identification procedures" is incorrect. In practice, investigations during the JITs show that it is much easier to identify victims in the countries of final destination than in the countries of origin. So, the low number of foreign victims of trafficking is not based on "effectiveness of the existing identification procedures".

[18] Regulated by Special Intelligence Means Act (Закон за специалните разузнавателни средства), Promulgated State Gazette No. 95/21.10.1997

Additional information provided by the Agency of Social Assistance

An important part in the work of social workers is the conduct of adequate assessment of the child's needs, risk assessment and planning activities and measures for the provision of protection and safety to the child. Data regarding the family environment of the child, the reasons for its transportation out of the country and involvement in trafficking are gathered.

According to the provisions of the Child Protection Act, a protection measure is undertaken for the children, with the aim of guaranteeing their safety and preventing the consequences of trafficking.

- Usually, as a first measure for children – victims of trafficking, accommodation in a Crisis centre is carried out, where the children can stay for a period of up to 6 months. Parallel with that Directorate "Social Assistance" carries out research, which aims to gather information not only about the parents but also the relatives and the close family circle of the child, with the purpose of – examining the possibilities for raising the child in family environment (the possibilities for reintegration of the children in the biological families, at relatives or close friends, foster families, social residential services, etc. are explored). As a last measure, if this is in the child's interest, it can be accommodated in a specialized institution.

When the measure for protection is carried in a family environment, the work is focused towards family consulting of the parents and relatives of the child on the problems of responsible parenthood. Social-psychological consultations with the child and its family are carried out. For focused and specialized work the child and its family can be directed to a social-service provider, such as a Center for social support, Complex for social services for persons and families and others.

The Court and Prosecution are notified to take competent action about parents, for whom there is data that they involve the child in activities, which adversely affect its development or with the actions or inaction place the child in risk.

* Work for recovery of children – victims of trafficking and prevention of their re-trafficking:

As was stated above, after leaving the Crisis center, the children and their families can be directed to a specialized social-service provider for aiding the process of overcoming the trauma of trafficking, for socio-psychological work, for full integration in the social life, as well as prevention of re-trafficking of the child.

Children – victims of trafficking are a priority group for accommodation at professional foster families.

Another service, which can be provided to victims of trafficking is the accommodation of mothers with small children (0-3 years old) in Unit "Mother and baby". The mother is provided with support for taking adequate care of the baby, acquiring parental skills, as well as activities for preventing the abandonment of the child.

Cases of children – victims of trafficking are actively monitored by department "Child Protection" for a period of one year, with the aim of providing the necessary support and preventing a new involvement of the children in trafficking, as well as preventing the possibility of involving other children from the family in this process. At the discretion of a social worker the monitoring period can be prolonged, depending on the specifics of each case.

* SAA carries out monitoring of children – victims of trafficking repatriated from abroad by:

- Gathers information for performed social research, case assessment and undertaken protection measures. The indicated information is reflected in social reports and a specially prepared by department "Child Protection" form towards the relevant Directorate "Social Assistance".

- Summarizes the gathered information.

- If needed arises, provides methodological support to officials from department "Child Protection" in the work on specific cases.

* The Unified expenditure standard for 2011 for the social service "Crisis center" is defined by Decision № 715 / 01.10.2010 of the Council of Ministers for the division of activities, finances through municipal budgets to local and delegated by the state activities and for determining standards for financing the delegated by the state activities in amount of up to 7210 levs per year for a single location.

Control over the quality of the provided social services is carried out by the Inspectorate at the Acting Director of the Social Assistance Agency and the State Agency for Child Protection.

- With the latest changes in the legislation in the area of social of services the district and municipal administration are assigned to develop strategies for the development of the long-term social services. From the summarized data it is clear that the opening of 42 Crisis centers and 23 Centers for temporary accommodation, where victims of trafficking can be accommodated for certain amount of time, is envisaged for the period 2010 – 2015.

On 30.09.2011 there are 14 Crisis centers with state-delegated activity opened and functioning in the country, four of them providing services for adults.

- An inter-institutional work group was formed at the SSA, which develops a Methodical guide for a Crisis center. The Methodical guide has the objective of presenting minimal requirements for functioning, and quality of the provided service. It sets the obligatory minimum of services and activities, which must be provided in a Crisis center, and sets the minimal requirements for the quality of the service, the material base, personnel and provided services.
- In identified cases of trafficking of newborn children or illegal leaving of the country by pregnant women at the end of the pregnancy with the aim of “selling” the babies, a relevant measure of protection is undertaken, according to the functioning legislation (described above).

The Instruction between State Agency National Security (SANS) and SAA – Ministry of Labour and Social Support, signed in 2009, establishes the cooperation between relevant institutions and their regional and territorial structural units for the conduct of focused activities for the prevention, counteraction and provision of protection to minors.

Under the cooperation, the SAA, through its territorial structures, provides information to SANS regarding received data for trafficking of children, trafficking of pregnant women, the selling of a newborn or unborn baby in the country or abroad, infringement and circumvention of the order of adoption laid down in the Family Code and others.