G R E T A
Group of Experts on Action
against Trafficking in Human Beings

COUNCIL OF EUROPE CONSEIL DE L'EUROPE

GRETA(2011)8

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

First evaluation round

Strasbourg, 12 September 2011

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Preamble

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Executive summary

Following ratification of the Council of Europe Anti-Trafficking Convention, the Cypriot authorities have taken a number of important steps to combat trafficking in human beings (THB). Thus, a comprehensive anti-trafficking law (Law 87(I)/2007) was adopted in 2007. The Multidisciplinary Co-ordinating Group for Combating THB was established in July 2008, involving all relevant national bodies as well as NGO representatives. This group has drawn up a national action plan against THB covering the period 2010-2012. Further, the so-called "artiste" visas, which favoured trafficking of women into Cyprus for the purpose of sexual exploitation, were abolished by a ministerial decision in September 2008.

The definition of "trafficking in human beings" contained in Cypriot legislation is in line with the definition in Article 4 of the Convention. However, GRETA is concerned that the definition of "victim of THB" contained in Law 87(I)/2007 requires that the person concerned has sustained damage or financial loss directly caused by the offence of THB. Although the criteria used by the Cypriot police to identify victims of THB do not refer to this requirement, the legal definition of "victim of THB" may have negative implications for the identification of victims and the assistance and protection measures that they can benefit from. GRETA therefore urges the Cypriot authorities to ensure that no conditions of damage or loss are required in order for a person to qualify as a victim of THB and to benefit from the assistance and protection measures provides for in Law 87(I)/2007.

As far as the prevention of THB is concerned, GRETA considers that the Cypriot authorities have so far not taken adequate measures to discourage the demand of services from trafficked persons, which is critical to combating THB. GRETA therefore suggests that such measures be adopted regarding the most common forms of THB in the country. Further, the Cypriot authorities should carry out targeted activities to prevent THB, including information to potential migrant workers in order to alert them about the risks of THB as well as systematic training programmes for relevant professionals.

GRETA also considers that the Cypriot authorities should step up the proactive investigation of potential cases of THB in sectors such as entertainment, tourism, agriculture and domestic work, including through close monitoring of the application of the visa regimes for performing artists. As trafficking for the purpose of labour exploitation is reportedly on the increase, the Cypriot authorities should conceive measures to address this phenomenon, such as alerting potential migrant workers about the risks of THB and stepping up police and labour inspections. In addition, GRETA strongly encourages the Cypriot authorities to pursue plans to develop a specific National Action Plan for child victims of THB.

The proper identification of victims is of paramount importance in order to protect and assist them. GRETA considers that the Cypriot authorities should step up their efforts to provide specialised, systematic training to professionals in contact with potential victims of THB, such as law enforcement officers, border guards, labour inspectors and social welfare officers. Further, GRETA stresses the importance of ensuring that clear instructions are given to all relevant officials involved in the identification of victims of THB in order to avoid any *de facto* link between the identification of victims and their willingness to co-operate with the authorities. GRETA urges the Cypriot authorities to review the identification system for victims of THB and invites them to consider establishing a national referral mechanism focusing on the victim's needs and covering all aspects of the identification and assistance process, including protection and redress.

Victims and potential victims of THB need to be adequately protected, informed and assisted and, to this end, GRETA urges the Cypriot authorities to strictly apply the reflection period of at least one month to all persons for whom are reasonable grounds to believe that they may be victims of THB. Further, GRETA urges the authorities to provide trafficked persons with information on their legal rights, including the reflection period, the services and assistance measures available and how to access them, and the right to compensation from the offender or the State. The Cypriot authorities should also make further efforts to provide psychological support to victims of THB, as well as access to education, vocational training and the labour market.

Regarding the investigation of cases of THB and the prosecution of traffickers, GRETA urges the Cypriot authorities to include in Law 87(I)/2007 the aggravating circumstance of THB committed by a public official in the performance of his/her duties, in accordance with Article 24 of the Convention. Given the lack of convictions for the offence of THB on the basis of Law 87(I)/2007, GRETA invites the Cypriot authorities to conduct a thorough assessment of the effectiveness of this law and the reasons for its limited application to prosecute traffickers. GRETA also considers that the Cypriot authorities should encourage the Office of the Attorney General to use Law 87(I)/2007 to pursue convictions for the offence of THB.

GRETA is concerned with the need to protect victims' private life and safety during criminal proceedings, including protection from intimidation, and considers that the stay in Cyprus of victims of THB should be facilitated so that they can testify and exercise their rights to compensation and redress. In this context, GRETA stresses the need to limit the delays and adjournments of court proceedings related to THB cases.

Further, GRETA highlights the importance of good partnerships and their crucial role to make progress in combating THB at the national and international level. Co-operation and assistance between countries of origin, transit and destination of victims of THB, in order to prevent THB and investigate specific cases, are critical for success. GRETA also considers that the Cypriot authorities need to improve the co-ordination among government agencies, NGOs and other members of civil society active in the field of action against THB and the protection of victims. This should involve the conclusion of written agreements between government departments and NGOs setting out the specific framework for co-operation on issues related to THB, as well as periodic reviews of their application.

The human rights-based and victim-centred approach that underpins the Convention needs to be fully reflected and applied in the Cypriot system to combat THB, from prevention to protection, prosecution and redress. This includes taking measures to ensure that all victims of THB are properly identified and empowered by realising their rights to adequate protection, assistance and redress. In this sense, all relevant officials and professionals in contact with victims or potential victims of THB, including judges, law enforcement officials, prosecutors and social workers, should be adequately informed and trained about 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.

I. Introduction

1. Cyprus was the 10th State to ratify the Council of Europe Convention on Action against Trafficking in Human Beings ("the Convention"), on 24 October 2007, thereby triggering the process by which the Convention entered into force on 1 February 2008.

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, Cyprus being in the first group of 10 Parties to be evaluated in 2010-2013.

3. In accordance with Article 38 of the Convention, GRETA proceeded with the examination of the measures taken by Cyprus 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 Cyprus on 10 February 2010. The deadline for submitting the reply to the questionnaire was 1 September 2010. Cyprus submitted its reply on 6 September 2010[1].

4. In preparation of the present report, GRETA used the reply to the questionnaire by Cyprus, other information collected by GRETA and information received from civil society. In addition, a country visit to Cyprus took place from 11 to 14 October 2010. It was carried out by a delegation composed of:

- Mr Nicolas Le Coz, First Vice-President of GRETA (at the time of the visit)
- Ms Diana Tudorache, member of GRETA
- Mr Christos Giakoumopoulos, Director of Monitoring and Executive Secretary *ad interim* of the Council of Europe Convention on Action against Trafficking in Human Beings (at the time of the visit)
- Ms Carolina Lasén Diaz, Administrator at the Secretariat of the Convention.

5. During the country visit, the GRETA delegation held meetings with representatives of the Cypriot authorities (see Appendix II). These meetings took place in a spirit of close co-operation.

6. The GRETA delegation held separate meetings with representatives of non-governmental organisations (NGOs) and civil society. GRETA is grateful for the information that they provided.

7. Further, in the context of the country visit, the GRETA delegation visited the Government-run shelter for women victims of trafficking.

8. GRETA wishes to place on record the valuable assistance provided by the contact person appointed by the Cypriot authorities, Ms Agni Papageorgiou, Administrative Officer at the Ministry of the Interior.

9. The draft version of the present report was approved by GRETA at its 9th meeting (15-18 March 2011) and was subsequently transmitted to the Cypriot authorities for comments. The authorities' comments were received on 16 May 2011 and were taken into account by GRETA when drawing up the final report. GRETA adopted the final report at its 10th meeting (21-24 June 2011).

[1] In accordance with Rule 5 of the Rules on the Evaluation Procedure, the replies to the questionnaire are to be treated as confidential unless a party requests publication.

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

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

10. According to the Cypriot authorities, the most frequent forms of trafficking in human beings (THB) in Cyprus are transnational trafficking of adults for the purpose of sexual and labour exploitation. All victims of THB identified in recent years (58 in 2008, 113 in 2009, 52 in 2010) were foreign nationals. The majority of them were women victims of THB for the purpose of sexual exploitation. There have also been cases of trafficked men for the purpose of labour exploitation. As regards child victims of THB, no cases were identified in 2008-2009, but there were two cases in 2010. Criminal proceedings against traffickers resulted in 11 convictions in 2008 and two in 2009. However, none of these convictions were for the crime of THB which was introduced in Cypriot legislation in 2007 (the persons concerned having been convicted for crimes against morality).

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

11. The legal framework to prevent trafficking in human beings, to protect and assist its victims, and to criminalise and prosecute traffickers in Cyprus is provided in Law 87(I)/2007 on Combating Trafficking and Exploitation of Persons and Protecting Victims ("Law 87"). The legal framework against THB also includes certain provisions of the Criminal Code (Chapter 154).

12. In addition to the Council of Europe Convention on Action against Trafficking in Human Beings, Cyprus is Party to the following conventions, amongst others: the International Convention for the Suppression of Trafficking in Women and Children (1983 ratification law); the UN Convention against Organised Crime and its Protocols (2003 ratification law); the Council of Europe Convention on Cybercrime (2004 ratification law); and the UN Convention on the Rights of the Child and Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (2006 ratification law).

13. In addition and as indicated by the Cypriot Government, the Convention for the Protection of Human Rights and Fundamental Freedoms ("European Convention on Human Rights") and the case-law of the European Court of Human Rights ("ECHR") are legally binding in Cyprus. The Constitution of Cyprus contains identical provisions as those in the European Convention on Human Rights.

a. The Law on Combating Trafficking and Exploitation of Persons and Protecting Victims

14. Law 87(I)/2007 on Combating Trafficking and Exploitation of Persons and Protecting Victims was adopted in 2007, replacing Law 3(I)/2000 on Combating Trafficking in Human Beings and Sexual Exploitation of Children. The new law seeks to harmonise the national legislation with the relevant European Union (EU) acquis[2] as well as to better implement the Council of Europe Anti-Trafficking Convention, the United Nations Convention against Transnational Organised Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (the Palermo Protocol).

[2] Law 87(I)/2007 implements EU Council Framework Decision of 19 July 2002 on combating THB; EU Council Framework Decision 2004/68/JHA of 22 December 2003 on combating the sexual exploitation of children and child pornography; and EU Council Directive 2004/81/EC of 29 April 2004 on the resident permit issued to third-country nationals who are victims of THB or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities.

b. National Action Plan against Trafficking in Human Beings (2010-2012)

15. Pursuant to Law 87, a Multidisciplinary Co-ordination Group for Combating THB (see paragraph 24) was set up and charged with a number of tasks, among which to review or amend the 2005 National Action Plan on Combating Trafficking in Human Beings and Sexual Exploitation of Children. This Group prepared a new National Action Plan against Trafficking in Human Beings ("the NAP against THB") for 2010-2012, which was adopted by the Council of Ministers on 22 April 2010. The new NAP against THB has nine chapters focusing on: co-ordination, prevention, identification and recognition of victims, protection and support of victims, suppression and prosecution, data collection, training, international co-operation, and evaluation.

16. The subject of trafficking in children has been left out of the scope of the NAP against THB. Due to the nature and particularities of this phenomenon, it was deemed that a separate Action Plan should be prepared by the Social Welfare Services (see paragraph 49).

c. The abolition of "artiste" visas and the new visa policy

17. Cyprus has come under national and international criticism for the regime of "artiste" or "entertainment" visas as a system which favoured trafficking of women into Cyprus for the purpose of sexual exploitation. These visas involved a three-month permit to enter and work in nightclubs and bars, which could be extended for a further three months. In 2003, the Council of Europe Commissioner for Human Rights reported that the number of young women migrating to Cyprus as nightclub "artistes" was well out of proportion to the population of the island, and called for the introduction of preventive control measures[3]. In 2006, the Commissioner further reported that approximately 4,000 permits were issued each year, mostly for women from Eastern Europe, and that many of those women worked in prostitution[4].

18. The system of "artiste" visas was considered by the ECHR in its judgment of 7 January 2010 in the case *Rantsev v. Cyprus and Russia*[5]. The Court found that the regime of "artiste" visas in Cyprus had not given the applicant's daughter practical and effective protection against trafficking and exploitation, and it concluded that there had been a violation of Article 4 of the European Convention on Human Rights in that regard[6]. The Court considered as "significant" reports from the Cypriot Ombudsman[7] and the Council of Europe Commissioner for Human Rights concerning the "artiste" visas and the substantial increase in the number of women entering Cyprus on such visas.

19. "Artiste" visas were abolished by a Ministerial Decision of 13 September 2008 (in force since 1 November 2008). Soon after that, the Council of Ministers adopted a new policy[8] to govern the entry and stay in Cyprus of third-country nationals for employment as performing artists in cabarets and other entertainment establishments. This new policy requires prospective employers to apply to the Ministry of Labour and Social Security for work permits. A special committee reviews applications and decides on them (see paragraph 89). Work permits are a condition for employers to apply for a visa for third-country nationals to enter Cyprus. Temporary residence and work permits are issued for one year and are renewable for a maximum of four years.

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3 Report by the Commissioner for Human Rights on his visit to Cyprus (25-29 June 2003), 12 February 2004 [CommDH(2004)2].

4 Follow-up Report on Cyprus (2003–2005) - Assessment of the progress made in implementing the recommendations of the Council of Europe Commissioner for Human Rights, 29 March 2006 [CommDH(2006)12].

5 *Rantsev v. Cyprus and Russia,* no. 25965/04, ECHR 2010.

6 Id. at paragraph 293

7 Cyprus Commissioner for Administration (Ombudsman's office), "The Entry and Labour Status of Migrant Artists Women", 2003, Cyprus.

8 Decision no. 67/893, adopted on 29 October 2008.

20. The Government of Cyprus considers that the new policy has had a direct impact on the flow of third-country nationals working in cabarets and music/dance places in Cyprus, with the estimated number of such persons dropping from some 1200 under the previous regime to around 330 by February 2010[9]. That said, on 26 July 2010, the Council of Europe Commissioner for Human Rights expressed concern that after the abolition of the "artiste" visas, other types of work permits might be used to circumvent the law, and called on the authorities to "remain vigilant against organised crime and ensure that no type of visa or work permit can be abused for such unlawful purposes as THB"[10].

d. Policy to combat THB as a form of violence against women

21. A National Strategy and Action Plan on Gender Equality (2007-2013) was prepared by the National Machinery for Women's Rights (under the Ministry of Justice and Public Order), in collaboration with government agencies, NGOs, local authorities, academic institutions and human rights bodies, and was adopted by the Council of Ministers on 29 August 2007. The National Machinery for Women's Rights has a central role in monitoring and co-ordinating the implementation of this Action Plan.

22. One of the priority areas of the Action Plan is to combat all forms of violence against women, including trafficking in women. This includes actions such as information and awareness-raising campaigns on the dimension and consequences of violence against women, and training of members of the police force, judges, lawyers and other professionals involved in handling cases of violence against women. In addition, the Action Plan foresees the creation of observatories for the collection, processing and dissemination of data and information regarding international THB, domestic violence and other forms of violence against women. The Action Plan on Gender Equality is expected to contribute to the implementation of the NAP against THB with measures such as the production and broadcasting of radio and television messages to raise public awareness of trafficking and sexual exploitation of women.

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

a. National Co-ordinator

23. In accordance with Article 47 of Law 87, the Minister of the Interior is the National Co-ordinator of action against trafficking in human beings. The Permanent Secretary of the Ministry of the Interior is in charge of issues concerning THB and has a team including a Chief Administrative Officer and two Administrative Officers.

b. Multidisciplinary Co-ordinating Group

24. The previously mentioned Multidisciplinary Co-ordinating Group was established in July 2008 to monitor the implementation of Law 87 and the NAP against THB. This Group also takes measures to collect and exchange information between its members. The Group is chaired by the National Co-ordinator. The other members of the Multidisciplinary Co-ordinating Group, all with a specific role in combating THB, are:

- the Attorney General
- the Permanent Secretary of the Ministry of Justice and Public Order
- the Chief of Police
- the Permanent Secretary of the Ministry of Foreign Affairs
- the Director of the Department of Labour of the Ministry of Labour and Social Insurance
- the Director of the Social Welfare Services

[9] Communication from Cyprus to the Committee of Ministers of the Council of Europe in the case of *Rantsev v. Cyprus* and the Russian Federation, 12 August 2010, [DH-DD(2010)376E].

[10] Press release of 26 July 2010, see http://www.coe.int/t/commissioner

- the Permanent Secretary of the Ministry of Health
- the Permanent Secretary of the Ministry of Education and Culture
- the Civil Registry and Migration Department (Ministry of the Interior)
- the Head of the Asylum Service of the Ministry of the Interior
- the National Machinery for Women's Rights
- two NGOs (selected by the Minister of the Interior): the Mediterranean Institute of Gender Studies (MIGS) and "Stigma".

25. According to the Cypriot authorities, the Multidisciplinary Co-ordinating Group meets every three months and can convene additionally for urgent or serious reasons as decided by the National Co-ordinator. Sub-committees have been set up to address specific issues, including to monitor the implementation of the NAP against THB.

26. One of the actions included in the NAP against THB for 2010-2012 is to prepare the Internal Regulation for the Operation of the Multidisciplinary Co-ordinating Group for Combating THB. This implies that the Group has so far operated without internal rules. According to the NAP against THB, the Minister of the Interior, who is the National Co-ordinator against THB and Chair of the Multidisciplinary Co-ordinating Group, should co-ordinate the preparation of the Internal Regulation of the Group, in co-operation with its members.

c. Police Office for the Prevention and Combating of Human Trafficking

27. The Police Office for the Prevention and Combating of Human Trafficking has been operational since 2004. This special office is responsible for gathering, processing, analysing and using intelligence on THB. It also co-ordinates the actions of other police departments that are involved in the investigation of cases of THB (see paragraph 55). Its five members set up and take part in operations to combat THB, and have direct contact with the victims. The office also carries out specialised training programmes for members of the police force, as provided for by the NAP against THB. Furthermore, it maintains a database and statistical records, and co-operates with foreign services, governmental and non-governmental organisations on matters relating to THB.

d. NGOs

28. At least six NGOs are active in the field of action against THB in Cyprus, through assisting victims, carrying out awareness-raising activities and conducting research on THB. As stated above, two NGOs are members of the Multidisciplinary Co-ordinating Group. Further, the Cypriot authorities have indicated that on 22 December 2010, the Multidisciplinary Co-ordinating Group decided to amend the legislation in order to increase the number of participating NGOs from two to four. This is a welcome decision, especially since concerns have been expressed as to the limited participation and involvement of NGOs in policy development to combat THB in Cyprus (see paragraph 54).

29. Law 87 provides for the possibility of signing protocols of co-operation between government agencies and NGOs for the implementation of measures against THB. These protocols must comply with the principles listed in Article 46 of Law 87, which include the protection of the personal data of victims of THB.

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

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

30. Article 1(1)(b) of the Convention establishes as one of its purposes the protection of the human rights of the victims of trafficking. Further, Article 5(3) includes the obligation for Parties to promote a human rights-based approach in the development, implementation and assessment of the policies and programmes to prevent THB. The Explanatory Report of the Convention states that the main added value of the Convention is its human rights perspective and 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"[11].

31. THB constitutes an offence to the dignity and fundamental freedoms of the human being and thus a grave violation of human rights. GRETA emphasises the obligations of States to respect, fulfil and protect human rights, including by ensuring compliance by non-State actors, in accordance with the duty of due diligence. The human rights-based approach entails that a State which fails to fulfil these obligations may, for instance, be held accountable for violations of the European Convention on Human Rights. This has been confirmed by the ECHR in its judgment in the case of *Rantsev v. Cyprus and Russia*, where the Court concluded that THB "within the meaning of Article 3(a) of the Palermo Protocol and Article 4(a) of the Anti-Trafficking Convention, falls within the scope of Article 4 of the European Convention on Human Rights"[12] (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.

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

33. GRETA wishes to stress the need for States to address THB also 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[13].

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[11] 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

[12] *Rantsev v. Cyprus and Russia,* no. 25965/04, at paragraph 282.

[13] 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.

34. According to the Cypriot authorities, the Constitution of Cyprus contains provisions identical to those in the European Convention on Human Rights and any unlawful acts or omissions that constitute the actual commission of the offence provided for in the national legislation on THB also constitute a human rights violation. Victims of THB, as victims of human rights violations, are entitled to rely directly on the provisions of the Constitution and the European Convention on Human Rights (pursuant to the case-law of the Supreme Court in the case *Yiallouros v. Nicolaou* of 8 May 2001[14]). Article 35 of the Cypriot Constitution imposes an obligation on the judicial authorities to ensure the efficient application of all fundamental rights and freedoms guaranteed under the Constitution. In the above-mentioned case, the Supreme Court found that claims for human rights violations were actionable rights that could be pursued in civil courts. The first civil action of this kind initiated by a victim of THB against cabaret owners in Cyprus is reportedly currently under way, and the hearing is scheduled to take place in September 2011. **GRETA would like to receive up-to-date information on the progress of this case.**

35. The NAP against THB for 2010-2012 states that "THB is a heinous form of violation of human rights that undermines human dignity, corrupts public life, subverts personal safety and produces huge profits". According to information received from the Office of the Attorney General, Cypriot courts consider THB as a fundamental human rights violation (see paragraph 159).

36. The human rights-based approach to THB entails accountability on the part of the State through the adoption of a national policy and action plans for combating trafficking in human beings, the co-ordination of the efforts of all relevant actors, the systematic training of relevant professionals, further 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 Cypriot authorities in these fields.

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

i. Definition of "trafficking in human beings"

37. 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, it is immaterial whether the means referred to above have been used (Article 4(c)).

38. The definition of THB contained in Article 2 of Law 87[15] is in line with Article 4(a) of the Convention. Article 5 of Law 87 criminalises THB and provides a definition of the offence of trafficking of adults that includes the three above-mentioned constitutive elements of THB. Further, Article 6 of Law 87, which criminalises the trafficking of children, contains 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 of trafficking of children in the Convention.

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14 *Takis Yiallouros v. Evgenios Nicolaou* (8 May 2001, civil action no. 9931).

15 "The recruitment, transportation, transfers, harbouring or receipt of persons, including the exchange or transfer of control over a person, through threats or the use of violence or other forms of coercion, abduction, fraud or deceit, abuse of authority or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person for the purpose of exploiting this person" (Source: unofficial translation of Law 87 provided by the Cypriot Government).

39. However, the definition of exploitation in Law 87 comprises "the removal of or trafficking or transportation in human organs". In this connection, GRETA wishes to stress that the trafficking in human organs may sometimes be linked to THB for the purpose of the removal of organs, but should not be confused with THB, which requires a link between the action, the means and the purpose of exploitation of the individual. Trafficking in human organs is a different phenomenon from THB for the removal of organs, as it can include situations where the organs are removed legally[16]. There is widespread confusion in legal and scientific communities between the two types of trafficking, which require different solutions as the trafficked objects are different: organs (in the case of trafficking or transportation of organs) and human beings (in the case of THB). In the light of the above, THB for the purpose of the removal of organs is rightly included in Law 87 as a type of THB, in accordance with the Convention, but the trafficking in human organs is not *per se* THB.

40. 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. Article 16 of Law 87 states that "the fact that the victim consents to the commission of the illegal act that constitutes an offence or that the victim receives any pecuniary or other reward for it, does not constitute defence for the defendant". This provision indicates that traffickers cannot use the alleged consent of THB victims to defend themselves in the framework of criminal proceedings. This does not fully reflect the Convention's approach to the issue of consent, which is also to be applied outside the criminal law context, namely in the identification, protection and assistance of victims.

41. **GRETA urges the Cypriot authorities to ensure that the principle according to which the consent of the victim is irrelevant when one of the means listed in the Convention has been used applies in all dimensions of the identification, protection and assistance of victims of THB and not only in the context of criminal proceedings.**

ii. Definition of "victim of THB"

42. The Convention defines "victim of THB" as any natural person who is subjected to THB as defined in Article 4 of the Convention.

43. Article 2 of Law 87 defines "victim of THB" as "a natural person who has sustained damage, including physical and psychological damage or financial loss which is directly caused by the commission of the offences established in this Law". GRETA notes the explanation given by the Office of the Attorney General, according to which the definition in Law 87 is interpreted in a broad way. However, there is no case-law on this issue, as there have been no convictions for THB on the basis of Law 87.

44. The definition of a victim of THB can have implications for the identification process. The Cypriot authorities have indicated that the previously mentioned definition included in Law 87 is not used in the identification of victims of THB by police (see paragraph 107). This illustrates the coexistence of two different approaches to victims of THB in Cyprus: one as victims of the crime of THB, which is included in Law 87 and has not yet been interpreted by the courts, and another applied to identify and assist victims and potential victims of THB.

45. GRETA stresses that the definition of "victim of THB" in Law 87 is not in conformity with the Convention, as the latter requires neither damage nor even actual exploitation. It is sufficient for a person to have been subject to the actions and means specified in the Convention, with the purpose of exploitation, to be considered a victim of THB. Further, GRETA considers that even if the identification of victims is not based on the definition contained in Law 87, the above-mentioned discrepancy between Law 87 and the Convention should be addressed in order to provide legal certainty and clarity to victims of THB.

[16] For further information on this issue, see *Joint Council of Europe/United Nations Study on Trafficking in Organs, Cells and Tissues (OTC), including Trafficking in Human Beings for the Purpose of the Removal of Organs;* 2009, CoE/UN.

46. **GRETA urges the Cypriot authorities to ensure that no additional conditions of damage or loss and in particular no evidence of such damage or loss are required from a person who has been subjected to THB in order to qualify as a victim of THB under Law 87 and to benefit from the protection measures provided for in this law.**

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

i. Comprehensive approach

47. One of the aims of the Convention is to design a comprehensive framework for the protection and assistance of victims and witnesses (Article 1(1)(b)). This comprehensive national action may be co-ordinated through a specific governmental body or entity. The Explanatory Report of the Convention further states that multidisciplinarity is necessary to combat THB effectively at the national level.

48. Law 87 is comprehensive in nature, covering all victims of THB subjected to different types of exploitation (labour or services, slavery or practices similar to slavery or servitude, the removal of human organs, the exploitation of the prostitution of others or other forms of sexual exploitation, including pornography).

49. As outlined in paragraph 15, the NAP against THB for 2010-2012 was prepared by the Multidisciplinary Co-ordinating Group. It aims to provide a comprehensive framework to address THB by setting pragmatic objectives covering all aspects of the problem and promoting concrete actions within the framework of a better and more constructive co-ordination. There is no reference to any evaluation of the 2005 National Action Plan that may have been used as a basis for the new one[17]. The final chapter of the NAP against THB states that there will be an annual internal evaluation of its implementation as well as an overall evaluation of the Plan in 2012. As stated earlier (see paragraph 16), the trafficking of children has been left out of the scope of the NAP against THB.

50. The Cypriot authorities have so far focused their attention on THB for the purpose of sexual exploitation. GRETA considers it important that THB for the purpose of other types of exploitation be adequately addressed, to the extent that the Convention obliges Parties to target at least the forms of exploitation mentioned in Article 4(a). As the NAP against THB states, experience shows that sexual and labour exploitation are the most common forms of THB in Cyprus. The NAP against THB for 2010-2012 includes several actions, such as an information campaign on labour exploitation and the review of the Handbook of Interdepartmental Procedures regarding THB in order to cover all aspects of exploitation.

51. **GRETA considers that the Cypriot authorities should step up their efforts to address THB for the purpose of labour exploitation in their prevention and prosecution policies. In addition, GRETA strongly encourages the Cypriot authorities to pursue plans to develop a specific National Action Plan for child victims of THB.**

[17] In his report following a visit to Cyprus in July 2008, the Council of Europe Commissioner for Human Rights, Mr Thomas Hammarberg, invited the Cypriot authorities to evaluate and monitor the effectiveness of the 2005 National Action Plan and the new legislation, with a view to ensuring proper identification of victims and child protection measures.

ii. Co-ordination

52. 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 co-ordinating bodies (Article 29(2)). In addition, the Convention refers to the need to co-operate and build strategic partnership with civil society (Article 35) through co-operative frameworks that can help Governments fulfil their obligations under the Convention by co-ordinating their efforts with civil society.

53. The purpose of the Multidisciplinary Co-ordinating Group is the development of policy, adoption of practical and operational measures, co-ordination of actions and formulation of concrete solutions. All relevant government agencies and services are members of the Co-ordinating Group (see paragraph 24), which had a budget of 120 000 euros in 2010[18].

54. As already noted (see paragraph 28), only two NGOs are members of the Multidisciplinary Co-ordinating Group but there are plans to increase their number to four. At the same time, there are several other NGOs which carry out activities provided for in the NAP to combat THB and assist its victims. Written agreements between government agencies and NGOs are in the process of being discussed. The participation of NGOs in the action to combat THB in Cyprus and to protect its victims is essential. Therefore, further mechanisms for co-ordination are needed in order to create synergies and increase the impact of the NGOs' work.

55. Another important co-ordinating body is the Police Office for the Prevention and Combating of Human Trafficking which has as its main responsibility to co-ordinate the actions of all Police Departments with competence to deal with THB (see paragraph 27). In addition, it maintains a statistical database, follows up and monitors THB cases pending before the courts, provides training for law enforcement officers, and co-operates with other law enforcement agencies, international organisations, NGOs and government services. Given this considerable number of tasks, the Police Office for the Prevention and Combating of Human Trafficking appears to be understaffed with only five staff members. This problem is acknowledged by the NAP against THB, which calls for the preparation of a detailed proposal for the improvement of the operation and the sufficient provision of staff and other means to this Police Office. This is particularly relevant as the Police Office plays an important co-ordinating role and assists with the identification of victims of THB in Cyprus.

56. **GRETA considers that the Cypriot authorities should strengthen the co-ordination among government agencies, NGOs and other members of civil society active in the field of action against THB and the protection of victims. This should involve the conclusion of written agreements between government departments and NGOs setting out the specific framework for co-operation, as well as periodic reviews of their application.**

57. **GRETA also invites the Cypriot authorities to:**

- **ensure that annual and *ex post* evaluations of the implementation of the NAP against THB for 2010-2012 are carried out, and that the results of these evaluations are duly taken into account in future policies to combat THB;**

- **consider commissioning an independent external assessment of the application of the NAP against THB for 2010-2012;**

- **consider increasing the human and financial resources of the Police Office for the Prevention and Combating of Human Trafficking so that it can effectively carry out the full range of tasks within its mandate.**

[18] In 2009, the activities of the Multidisciplinary Co-ordinating Group were funded from the general budget of the Ministry of Interior. Since 2010, a special fund from the overall budget of the Ministry of the Interior is dedicated to the activities of the Multidisciplinary Co-ordinating Group.

iii. Training of relevant professionals

58. Law 87 provides for the training of all government officials involved in action against THB as well as the judiciary. The NAP against THB includes several actions on this issue, a number of which have already been implemented or are in the process of being carried out.

59. As regards training on THB-related issues for police officers, the Cypriot authorities have indicated that in each district, there are several senior police officers who have been trained on THB issues. In addition, police officers receive THB-related training in the police academy, including on the difference between the smuggling of migrants and victims of THB (see paragraph 110). However, concerns have been expressed by NGOs about the limited scope of this training, which reportedly consists of a three-hour seminar covering a variety of human rights and discrimination issues.

60. The Cypriot authorities have reported that training for the judiciary and law enforcement personnel is planned for the autumn of 2011.

61. The NAP against THB includes measures to train consular officers stationed in the countries of origin of victims, as well as the training of officers of the Ministry of Education involved in the interviews of applicants of student visas abroad (see paragraph 90).

62. According to the Cypriot authorities, professionals who work directly with victims of THB, such as psychologists and social workers, follow an annual training programme run by the Social Welfare Services. In addition, GRETA was informed of plans to train medical doctors on THB issues as well as the publication of a brochure with procedures to be followed in respect of victims of THB in hospitals.

63. Further, the Ministry of Education and Culture regularly conducts training for school principals and teachers on human rights issues, including THB, as part of the mandatory educational programme for teachers since 2008. The NAP against THB also included measures to train teachers and seminars to inform the media about THB.

64. GRETA notes the steps taken by the Cypriot authorities to train relevant professionals working in the area of preventing THB and assisting its victims. That said, more systematic and focused training is needed in order to improve the identification of trafficking victims and overcome entrenched negative perceptions of victims of THB (see paragraphs 199 and 200).

65. **GRETA considers that the Cypriot authorities should step up their efforts to provide specialised and systematic training to all relevant professionals, such as law enforcement officers, border guards, consular officers, labour inspectors and social welfare officers, including with a view to improving the identification of victims of THB for labour exploitation and emerging new forms of THB.**

66. **Further, GRETA invites the Cypriot authorities to design future training programmes with a view to improving the knowledge and skills of relevant professionals in order to enable them to better identify, protect and assist victims of trafficking. During the training, particular attention should be paid to overcoming negative attitudes and prejudices vis-à-vis victims of trafficking.**

67. **GRETA also invites the Cypriot authorities to give priority to the actions of the NAP against THB for 2010-2012 concerning the training of judges and public prosecutors.**

iv. International co-operation

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

69. The NAP against THB includes two sets of international co-operation measures aimed at strengthening co-operation with:

- countries of origin and transit, including through bilateral agreements for co-operation and exchange of best practices, victim protection, and suppression of THB. The Ministry of Foreign Affairs is in charge of initiating contacts between Cypriot consular officials abroad and the competent authorities of countries of origin and transit of victims of THB, and has plans to train Cypriot consular staff in such countries (e.g. Belarus, Bulgaria, Cameroon, the Dominican Republic, Moldova, the Philippines, Romania, Ukraine and Vietnam);

- European and international organisations, including the conclusion of an agreement with the International Organisation for Migration (IOM) to address the repatriation of victims.

70. The Cypriot authorities have also referred to close co-operation with the Romanian authorities, with the support of the European Police Office (Europol), which involved an investigation of THB for the purpose of labour exploitation and resulted in the dismantlement of a network recruiting Romanian citizens to be trafficked to Cyprus.

71. Cyprus has acceded to the 1959 Council of Europe Convention on Mutual Assistance on Criminal Matters and its 1978 Additional Protocol. Moreover, two EU Council Framework Decisions - No. 2009/316/JHA on the establishment of European criminal records information systems (ECRIS), and No. 2009/315/JHA on the exchange of information extracted on criminal records - are in the process of being implemented in the Cypriot legislation, including through a Decision of the Council of Ministers of 8 October 2010.

72. The previously mentioned ECHR's judgment in the case of *Rantsev v. Cyprus and Russia* stressed the duty of States to co-operate effectively in cross-border trafficking cases in order to achieve a full, effective and prompt investigation covering all aspects of THB, including the involvement of the victim or the next-of-kin to the extent necessary to safeguard their legitimate interests (see also paragraph 183). This underscores the need to step up international co-operation in the area of investigations.

73. **GRETA considers that the Cypriot authorities should explore further possibilities for international co-operation in the fields of protecting and assisting victims of THB, and the investigation and prosecution of trafficking cases, *inter alia* in order to prevent re-trafficking.**

v. Data collection and research

74. The authorities responsible for collecting data on THB are the police, the Social Welfare Services and the Civil Registry and Migration Department. The NAP against THB for 2010-2012 includes a section on data collection which envisages the gathering of comparable statistical data through standardised forms. The NAP against THB also includes drawing up quarterly reports with statistical data, to be fed into an electronic database.

75. In addition, the NAP against THB for 2010-2012 refers to plans to support and fund studies, surveys and research on THB, as well as to publish research on THB to be carried out by the two NGOs members of the Multidisciplinary Co-ordinating Group.

76. **GRETA encourages the Cypriot authorities in their plans to introduce a comprehensive and coherent data collection mechanism that would make it possible to share information among the main actors in the fight against THB, while respecting the rights of data subjects to protect personal data. Statistical data should be disaggregated (into gender, age, type of exploitation, etc.) and its collection should be designed in a way that enables the authorities to determine the scale of the problem and the most appropriate measures to be taken with regard to the different forms of THB and groups affected.**

77. **GRETA also invites the Cypriot authorities to continue conducting and supporting research as an important source of information for future policy measures in the field of action against THB.**

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

78. According to the Convention, Parties must take measures to prevent THB, with the involvement of relevant NGOs, other organisations and members of civil society as appropriate (Article 5(2) and 5(6)). The Convention establishes that Parties must take measures to discourage demand, strengthen border controls and ensure the integrity and security of travel or identity documents (Articles 6-8).

a. Awareness raising and education

79. Before the NAP against THB for 2010-2012, a general awareness-raising campaign was organised by the Ministry of the Interior, from December 2008 to April 2009, with information materials such as posters and a TV spot with the message “Human trafficking is a serious crime”. The campaign also made available a telephone helpline. However, there has been no evaluation of the impact of the campaign.

80. The Ministry of the Interior has prepared, in co-operation with NGOs, an information card for potential victims of THB, which exists in seven languages. The cards, which are distributed at airports and other border control points, provide a helpline telephone number for potential victims. In addition, there are plans to carry out two information campaigns targeting demand and labour exploitation.

81. The NAP against THB for 2010-2012 includes actions to prevent THB, most of which have a general scope, while others are specifically aimed at school children, the media, or potential victims of THB. For instance, the NAP against THB includes information and educational measures for pupils and teachers in elementary and secondary schools. A reform of the school curricula is being developed, which includes a multidisciplinary approach to human rights and sexual education.

82. GRETA welcomes the efforts of the Cypriot authorities to step up action to prevent THB but it notes the lack of assessment of previous measures.

83. **GRETA considers that the Cypriot authorities should design future actions in the area of awareness raising and education on the basis of the assessment of previous measures, reliable data and research, which should enable the authorities to focus on the needs identified. Increased emphasis should be placed on changing social attitudes towards victims of THB. The success of these efforts will depend on efficient data collection, adequate funding and regular evaluation.**

84. **Further, GRETA considers that the Cypriot authorities should plan future awareness-raising campaigns to prevent THB with the involvement of civil society, including NGOs.**

b. Measures to discourage demand

85. 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 United Nations Recommended Principles and Guidelines on Human Rights and Human Trafficking, strategies aimed at preventing THB shall address demand as a root cause of trafficking[19].

86. The NAP against THB for 2010-2012 includes an information campaign on demand and how this affects the increase of THB. **GRETA would like to be informed whether such a campaign has already been planned and to receive more details on it.**

87. GRETA notes that the Cypriot authorities have so far not taken adequate measures to discourage the demand of services from trafficked persons. **GRETA considers that the Cypriot authorities should take specific measures to discourage demand for the services of trafficked persons, targeting in particular the most common forms of THB in the country.**

c. Border measures and measures to enable legal migration

88. Article 5(4) of the Convention requires Parties to take appropriate measures to enable migration to take place legally, in particular through dissemination of accurate information on the conditions enabling the legal entry and stay in its territory.

89. The website of the Ministry of Foreign Affairs provides information in English on entry regulations, visa application procedures and transit restrictions for prospective travellers to Cyprus. In addition, it is planned to produce information materials for visa applicants on migrant worker's rights and obligations and existing entry regulations, and to distribute them through consular offices. A leaflet addressed to foreign women travelling to Cyprus for employment in entertainment venues (dated June 2005) is available in English, Russian, Romanian and Bulgarian on the website of the Ministry of Foreign Affairs. The Cypriot authorities have informed GRETA that this leaflet will be replaced by new ones prepared in several languages (Arabic, English, Bulgarian, Greek, Romanian, Russian and Spanish), to be distributed through the consular authorities of the main countries of origin of victims, the Civil Registry and Migration Department, and the Aliens and Immigration Unit of the police. The leaflets include information on THB as well as on migrants´ rights and obligations. In addition, the translation of standard employment contracts for performing artists and domestic workers into the languages of the main countries of origin of trafficking victims is said to be underway. The effect of these measures on the reduction of THB in Cyprus remains to be seen.

90. The GRETA delegation was informed during the country visit that the screening of visa applications for students is carried out in co-operation with officials from the Ministry of Education, who travel to the countries of origin to verify the accuracy of the qualifications for student visa applications.

91. There is an additional control for visa applicants through the so-called "Stop-List Catalogue", which provides information on previous illegal stays or convictions in Cyprus as well as international alerts (Interpol, Europol). This catalogue is managed by the Alien and Immigration Unit of the police and access to it is granted to consular officers as well as to the Civil Registry and Immigration Department. It is used in order to prevent the entry of persons who have been involved in trafficking cases.

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

92. There is no data concerning the number of visas which may have been rejected for suspicion of THB. In this context, it is envisaged to train consular officers abroad on THB issues, which could include the application of a checklist to identify potential THB-related risks during the visa application procedure. These measures, together with the data collection actions included in the NAP against THB for 2010-2012, should help redress the current lack of data on the number of visas rejected for suspicion of THB.

93. Cyprus is preparing to take part in the EU's Visa Information System (VIS) which is aimed at ensuring a quality and unified checking system of visa applications. The Cypriot authorities are working on the upgrade of existing VIS stations as well as on the application of VIS to the entire network of Cyprus' consular posts worldwide and at all national entry/exit points. This project is foreseen for completion in 2013, allowing for biometric visas to be issued at all consular posts abroad. The installation of the VIS at 12 border crossing points (two airports, five harbours, five marinas) will be implemented by June 2012. Cyprus is currently not a member of the Schengen area, but it is preparing to join and fully comply with the Schengen *acquis*, including the VIS Regulation. The Ministry of Foreign Affairs has given priority in its strategic planning to actions related to the implementation of the VIS at consulates and border crossing points.

94. The Cypriot authorities have reported that the Aliens and Immigration Unit of the Police is responsible for controlling the border crossing points, including the international airports of Larnaca and Pafos, the ports of Larnaca, Limassol and Pafos, and the marina of Larnaca. Border Guards receive the same training as other officers within the Aliens and Immigration Unit, which includes training on THB. According to the Cypriot authorities, there is a daily information exchange which includes cases of potential victims of THB as well.

95. The Asylum Service informed GRETA that there had been no cases of asylum applicants linked to THB, including no victims of THB having sought asylum protection in Cyprus. That said, in March 2011 the *Cyprus Mail* newspaper[20] reported the case of an alleged victim of THB who apparently had applied for asylum, but was nevertheless issued with a deportation order. According to the newspaper, the Minister of the Interior intervened and ordered the suspension of the deportation order while an investigations was carried out.

96. As already noted in paragraph 19, following the abolition of the much-criticised "artiste" visas, a new visa and work permit policy for "performing artists" coming to Cyprus from third countries was introduced. Pursuant to it, all third-country nationals entering Cyprus to be employed as artists are issued with entry permits as creative artists (writers, composers, painters, etc.) or performing artists (actors, dancers, singers, etc.), after their employer has obtained an employment permit from the Labour Department.

97. Work permit applications for performing artists are submitted to the Department of Labour by the interested employer and are examined by a Special Committee consisting of representatives from the Department of Labour, the Department of Civil Registry and Migration, the Cyprus Tourism Organisation, and the Aliens and Immigration Unit of the police. The examination takes into consideration the applicant's qualifications and work experience so that permits are granted only to genuine artists. The Cypriot Government has reported that the qualifications of performing artists are verified through certificates from dance schools and letters from past employers. These documents are certified by a notary in the country of origin, and are apostilled by the competent authority of the country of origin of the performing artist.

[20] "*AG ordered deportation of trafficking victim*", Cyprus Mail, 13 March 2011.

98. After the employment application has been approved and an employment permit granted (the employment permit is issued to the specific employer for a minimum of one year), the employer has to apply for an entry permit to the Civil Registry and Migration Department. Once the third-country national arrives in Cyprus, he/she has to apply for a temporary residence permit.

99. GRETA notes the efforts made by the Cypriot authorities to improve the regulation of migration policy with regard to the entertainment business. That said, GRETA is concerned that this sector presents a particular risk for THB for sexual exploitation and that a new visa policy by itself does not eliminate the sexual exploitation of trafficked women. The visa regimes for performing artists should therefore be carefully monitored and enforced, as there are indications that THB for sexual exploitation continues to take place in cabarets, massage parlours, bars, pubs and private apartments. Monitoring and inspection of visas for bar tenders should also be carried out. In addition, the lack of control over the employment status of EU nationals, and the fact that no labour inspections are carried out in bars, pubs or cabarets, justify stepping up police control of entertainment venues where potential victims of THB may be found. As the ECHR has stressed, States must put in place adequate measures regulating businesses often used as a cover for human trafficking; further, a State's immigration rules must address relevant concerns relating to encouragement, facilitation or tolerance of trafficking[21].

100. THB for labour exploitation is reportedly on the increase in Cyprus, in particular in the agriculture and domestic work sectors. However, it appears that this issue has not yet received adequate attention. In addition, there seems to be a confusion between cases of THB for labour exploitation and labour disputes in certain sectors. GRETA understands that the Department of Labour is preparing guidelines on labour disputes that could be linked to THB and it trusts that these guidelines will be disseminated as soon as possible This is of particular importance in the case of domestic workers as reportedly more than 60% of an estimated total of 50 000 are foreigners[22]. The 2011 report of the Council of Europe's Commission against Racism and Intolerance (ECRI) concerning Cyprus, published in May 2011, notes with concern that the situation of foreign domestic workers in Cyprus has not improved and that they continue to be one of the most vulnerable groups of foreign workers.

101. A report by the Ombudsman of Cyprus concerning labour disputes between foreign workers and their employers (dated March 2010) recommended the review of the country's policy on domestic workers and labour disputes, and the adoption of a new regulatory framework in this area. The Cypriot Government has reported that the new policy for alien domestic workers has included a 10% increase of the minimum gross salary of domestic workers. Further, certain requirements have been added, such as basic knowledge of Greek or English and at least one year experience in a similar position. However, migrant domestic workers are particularly vulnerable to THB, due to a residence status which makes them dependent on their employer. In Cyprus, third-country nationals employed as domestic workers are not allowed to change employers for the first six months[23]. After this period, they can change employers only with the latter's' prior consent or through a decision by the labour disputes committee. The maximum period of employment for foreign workers in Cyprus is four years.

102. GRETA notes that the Cyprus authorities have taken, or are in the process of taking, a number of important measures to ensure the informed and legal migration of foreigners to Cyprus. The Ministerial Committee for the Employment of Third Country Nationals plays a key role in monitoring the residence and employment regimes of third-country nationals in Cyprus. However, not enough has been done to evaluate the real impact of visa policies on the prevention and detection of trafficking of foreigners for sexual and labour exploitation, including domestic workers.

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21 *Rantsev v. Cyprus and Russia*, see footnote 5, at paragraph 284.

22 Report of the Ombudsman on the procedure for considering labour disputes between foreign workers and their employers, issued on 12 March 2010, Nicosia, Cyprus.

23 By decision of the Ministerial Committee for the Employment of Third-Country Nationals.

103. **GRETA urges the Cypriot authorities to:**

- **improve the information provided to potential migrant workers to alert them about the risks of THB;**

- **closely monitor the application of the visa regimes for performing artists, bar tenders and other groups at risk (such as domestic workers, agriculture workers, those employed in the tourism sector and *au pairs)*;**

- **step up police control of entertainment venues where cases of THB for sexual exploitation may be found;**

- **step up police and labour inspections aimed at identifying cases of labour exploitation.**

104. **Furthermore, GRETA considers that the Cypriot authorities should:**

- **co-operate with the main countries of origin of victims of THB to alert potential victims of THB-related risks;**

- **introduce a checklist to identify potential THB-related risks during the visa application system;**
- **take due account of THB risks and include preventive measures, such as information, in the revised policy on domestic workers and their labour disputes;**

- **consider the THB-related risk of the requirement that ties migrant workers to their employers.**

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

a. Identification of victims of THB

105. 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. The Convention also establishes that when the competent authorities have reasonable grounds to believe that a person has been a victim of THB, he/she must not be removed from the country until the identification process as victims of a trafficking offence is completed.

106. Article 45 of Law 87 establishes a "national reporting mechanism of victims" according to which all civil servants should report to the Social Welfare Services any person they consider may be a victim of THB. NGOs should also report potential victims of THB to the Social Welfare Services (Article 29(1) of Law 87), which have to inform them of their rights and the facilities available. The Social Welfare Services report the case to the police which, pursuant to Article 29 of Law 87, is the competent authority to identify victims of THB.

107. The Cypriot authorities have indicated that the identification of victims of THB is not linked to the above-mentioned definition of victim of THB contained in Law 87 (see paragraph 44), which requires them to have sustained physical and psychological damage or financial loss caused directly by the offence of THB. The criteria used by the police to assess potential victims of THB are the so-called "Delphi indicators", developed through a European Commission-ILO project in 2008. The 67 indicators used cover the recruitment, the means included in the definition of THB, the conditions of exploitation and coercion in the place of destination, as well as the vulnerability of potential victims.

The fact that the means included in the definition of THB do not need to be present when children are concerned is expressly indicated.

108. A **"**Handbook for the identification of victims" is made available to police officers and provides them with practical guidance in respect of:

- their first contact with a potential victim
- the information to be provided to potential victims
- the recognition of a possible trauma and the eventual behaviour of victims
- the indicators that may reveal a case of THB
- rules to be observed when interviewing potential victims
- possible reaction to the victim's reserved attitude and reluctance to co-operate with the police
- indicators to identify possible traffickers.

109. The Cypriot authorities have reported that whenever needed and possible, officials from the Social Services Officers use the services of interpreters. GRETA wishes to stress the importance of good quality and independent interpreters for victims of THB from the early stages of the investigation.

110. According to the Cypriot authorities, the members of the Police Office for the Prevention and Combating of THB, as well as police officers from other departments and services, receive training on THB issues in the form of specialised seminars or as part of the regular training programmes offered by the Police Academy on legislation, intelligence gathering, victim identification, interview techniques, and victims' support and protection. Police officers are also reportedly trained on the difference between smuggled migrants and victims of THB so that they can refer them to the appropriate department. In this context, GRETA welcomes the action planned in the NAP against THB for 2010-2012 to train members of the police, as well as labour inspectors, officers of relevant government departments, health-care staff and NGOs on the identification of potential victims and the support and protection of victims. Further, the EU agency FRONTEX is preparing a training programme on the profiling of potential THB victims at EU's external borders and police staff in Cyprus plan to take part in it.

111. Law 87 does not make the identification of victims of THB conditional upon their willingness to co-operate with the authorities. Furthermore, Article 34(1) of Law 87 establishes that identified victims of THB have a number of rights (to information, assistance, etc.) regardless of whether they are willing or not to be witnesses in the criminal proceedings. Protective measures for victims of THB are also applied irrespectively of the victims' co-operation with the prosecuting authorities (Article 28(b) of Law 87). Co-operation is therefore not a criteria for granting the legal status of victim, but it is a requirement for being granted a residence permit for THB victims (see paragraphs 120 and 124).

112. However, GRETA notes that NGOs have reported a *de facto* connection between the identification of victims of THB in Cyprus and their willingness to co-operate with the competent authorities in the related investigation and legal proceedings.

113. The statistical data provided by the Cypriot authorities indicates that 58 victims of THB were identified in 2008, 113 in 2009 and 52 in 2010. The number of potential victims of THB who have received assistance (104 in 2008, 220 in 2009) is higher than the previously mentioned numbers of identified victims of THB. The Cypriot authorities explain this difference as being due to the fact that the same victim may appear several times in the statistical data of the Social Welfare Department, which includes the number of victims and potential victims who have received assistance every year, while the police keeps statistical data on the number of victims identified each year.

114. The Cypriot authorities have reported that the first two child victims of THB in Cyprus were identified in 2010. The Cypriot Commissioner for Children's Rights indicated that unaccompanied minors seeking asylum in the country represent a potentially high-risk vulnerable group for THB. The Asylum Service has explained that when an application for international protection is lodged by an unaccompanied minor, guardianship is immediately granted by the Minister of Labour and Social Insurance, whereas the Commissioner for Children's Rights acts as a legal representative throughout the examination procedure. During the country visit to Cyprus, the GRETA delegation was informed about procedural difficulties which prevent the Commissioner from hiring private lawyers in order to ensure the legal representation of unaccompanied minors.

115. The Cypriot authorities have informed GRETA of a newly emerging trend of trafficking in 2010, with 10 identified victims of THB for the purpose of "marriages of convenience". These victims of THB were reportedly identified using the "Handbook on the identification of victims of THB". **GRETA would like to receive further information on the type of exploitation which these identified victims of THB have suffered and on measures taken to protect and assist them.**

116. While acknowledging the efforts made by Cyprus to apply a broad set of indicators in the identification of victims of THB, GRETA concludes that the current identification system of victims of THB is not sufficiently effective as it risks to leave out those reluctant to report to the authorities that they are victims of THB and those unwilling to co-operate with the authorities.

117. On the basis of the above, **GRETA urges the Cypriot authorities to review the identification system for victims of THB and its application.**

118. **Furthermore, GRETA considers that the Cypriot authorities should:**

- **set up a coherent national referral mechanism which ensures co-ordination between all actors involved in identifying trafficked persons;**

- **ensure that clear instructions are given to all relevant officials involved in the identification of victims of THB in order to avoid any *de facto* link between the identification of victims and their willingness to co-operate with the authorities.**

b. Recovery and reflection period and residence permits

119. As victims of THB are extremely vulnerable after the trauma they have experienced, the Convention introduces the obligation for Parties to provide in their internal law for a recovery and reflection period of at least 30 days. The minimum 30-day period constitutes an important guarantee for victims and potential victims and it serves a number of purposes, including to allow them to recover and escape the influence of traffickers and to take a decision on co-operating with the competent authorities. During this period, Parties must authorise foreign victims and potential victims of THB concerned to stay in their territory and expulsion orders cannot be enforced[24].

120. 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. EU Member States have been encouraged to follow the second option in their application of EU Council Directive 2004/81[25] and this is the approach taken by Cyprus (see Article 32 of Law 87). 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[26]. GRETA notes the report by the European

[24] See the Explanatory Report on the Convention, paragraphs 173 and 175.

[25] Directive 2004/81/EC on the residence permit issued to third-country nationals who are victims of THB or who have been the subject of an action to facilitate illegal immigration, who co-operate with the competent authorities. This Directive is applicable to all EU member States except Denmark, Ireland and the UK.

[26] 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.

Commission on the application of this Directive, which includes plans for the consideration of "the need for amendments to the Directive, including the possibility of issuing a temporary residence permit based on the vulnerable situation of the victim and not necessarily in exchange for co-operation with competent authorities"[27].

121. According to Article 30 of Law 87, temporary residence permits are granted to allow victims of THB from third countries a reflection period in order to recover and escape the influence of traffickers so that they can take an informed decision as to whether to co-operate with the competent authorities for the investigation of the offence or the judicial process. These temporary permits for reflection are issued for at least one month and can be further renewed at the discretion of the Civil Registry and Migration Department of the Ministry of the Interior.

122. During the period of validity of the residence permits granted for the purpose of reflection, victims have access to the assistance measures provided for in Articles 34-38 of Law 87, including emergency medical treatment, psychological assistance, temporary accommodation, interpretation, legal aid, pocket money, access to the labour market, protection by the police, and access to assistance programmes by authorised NGOs (including vocational training and language lessons). Further, child victims of THB benefit from free education. Articles 37 to 39 of Law 87 provide for specific measures for unaccompanied minors who are victims of THB.

123. Expulsion orders cannot be enforced during the period of validity of the temporary residence permits for reflection. The Director of the Civil Registry and Migration Department can cancel the temporary residence permits for reflection if victims renew contact with their traffickers at their own initiative, and also for reasons of public order or national security. To the extent that temporary residence permits given to victims of THB are linked to their co-operation with the authorities, if victims decide to return to their country of origin before the end of the court proceedings, their victim status and temporary residence permit come to an end. This is also the case when they not longer participate in the court proceedings.

124. At the end of the reflection period**,** temporary residence permits of a least six months may be granted, in accordance with Article 32 of Law 87. These residence permits can be renewed uniquely on the grounds of the victim's co-operation with the authorities or taking account of the victim's participation in criminal proceedings and therefore their duration is linked to the length of the court proceedings. The Social Welfare Service is the authority which usually submits the application to renew the residence permit, on behalf of the victim, but victims can also apply directly for an extension of their residence permit. As regards the procedure for the issuing of residence permits, once the police has identified a victim of THB, it informs the Civil Registry and Migration Department and recommends that the latter issues the victim with a temporary residence permit. The same procedure operates in case of withdrawing the residence permit. The Civil Registry has no discretion to decide separately from the police ("*compétence liée"*).

125. The GRETA delegation was informed by the authorities during the visit to Cyprus that the reflection period is not compulsory and that victims of THB willing to co-operate receive immediately a temporary residence permit. As indicated in paragraph 111, co-operation is not a legal criterion for the identification of victims of THB, but it is a requirement for granting them a temporary residence permit (Article 32(1)(b) and Article 33(2)(b),(c) and (d) of Law 87).

126. The statistics provided by the Cypriot authorities show that 56 out of a total of 58 victims of THB identified in 2008 received a residence permit on the grounds of co-operation with the authorities, and 112 out of 113 identified victims of THB in 2009.

[27] Report from the European Commission to the European Parliament and the Council on the application of Directive 2004/81/EC, 15 October 2010 [COM(2010)493 final].

127. **GRETA urges the Cypriot authorities to strictly apply the reflection period to all persons for whom are reasonable grounds to believe that they may be victims of THB.**

c. Information to victims and potential victims

128. The Convention requires Parties to provide assistance to victims of THB, including counselling and information, in particular as regards their legal rights and the services available to them, and in a language that they can understand (Article 12(1)(d)). Further, it establishes that victims of THB must have access to information on relevant judicial and administrative proceedings, also in a language which they can understand (Article 15(1)).

129. Pursuant to Article 29 of Law 87, the Social Welfare Services are responsible for informing victims and potential victims of their legal rights and obligations**,** including the reflection period, the benefits and services available and how to access them. However, concerns were expressed by NGOs about the lack of information and assistance to victims and potential victims of THB regarding the implications of the status of victims of THB and their legal rights (independently of their possible co-operation and role as witnesses in criminal proceedings, which secures them a temporary residence permit, as explained above).

130. Victims of THB are not notified of the letter sent by the police to the Civil Registry and Migration Department regarding the temporary permit for reflection or residence. Further, potential victims are not informed of the possibility to challenge the decision not to grant them the status of victim of THB, a possibility which remains theoretical as it has not yet been explored and there is no clarity as to the nature of the police decision not to grant victim status. In principle, GRETA understands that a judicial review should be possible, either independently or in conjunction with a possible expulsion order following the decision not to grant victim status. The Cypriot authorities have reported that social workers inform victims of their status and the procedures to be followed.

131. GRETA concludes that more information is needed for victims and potential victims of THB, including child victims, regarding their legal rights and obligations, such as the reflection period, the benefits and services available and how to access them. GRETA must stress the importance of providing such information in languages that victims of THB can understand, as established by the Convention. In addition, victims also need specific information on the implications of being recognised as a victim of THB and the possibility to appeal the decision not to be granted the status of victim of THB, together with legal assistance and legal aid to undertake civil actions for compensation and redress.

132. GRETA notes that the NAP against THB includes the preparation by the police of documentation on the victim recognition procedure. GRETA has been informed that a leaflet informing victims of THB for the purpose of sexual exploitation about their rights has been prepared by the Social Welfare Services, in 10 languages (Bulgarian, Chinese, English, French, Latvian, Polish, Romanian, Russian, Spanish and Ukrainian). The leaflet is reportedly available at District Social Welfare Offices and will be accessible online in the future. In addition, the Cypriot authorities have reported that an information leaflet for persons trafficked for all forms of exploitation is under development and expected to be completed in 2011.

133. **GRETA urges the Cypriot authorities to provide victims of THB with information on their legal rights and obligations, including the reflection period, the services and assistance measures available and how to access them, the right to compensation, and the protection and assistance measures available to identified victims of THB who may not wish to co-operate with the authorities. In this context, information materials on the rights of potential and identified victims should be drawn up in an appropriate range of languages.**

d. Assistance measures

134. 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).

i. Accommodation

135. The Convention establishes that the assistance to victims of THB must include appropriate and secure accommodation (Article 12(1)(a)).

136. Pursuant to Articles 34(3) and (4) of Law 87, the Social Welfare Services should set up and operate shelters for victims of THB, but this task may be delegated to NGOs or the local administration authorities on the basis of the protocol of co-operation or a special agreement between them.

137. Since 2007, the Social Welfare Services have run a shelter for female victims of THB for sexual exploitation. The GRETA delegation visited this shelter during the country visit to Cyprus and met with its director and other staff. With a capacity of 15 places, the shelter was used to accommodate 85 victims in 2008-2009 and 38 in 2010. According to the Cypriot authorities, the budget of the Social Welfare Services to cover the operational expenses of the shelter amounted to 87 000 euros in 2010. Accommodation for identified victims of trafficking for the purpose of other types of exploitation is said to be provided in hotels or rented apartments. The Cypriot authorities have reported that 14 victims of THB were housed in rented apartments and hotels in 2010.

138. In principle, victims of THB can stay in the shelter for one month, with the possibility of an extension. The GRETA delegation was informed that victims can engage in some activities during their stay in the shelter, such as cooking and crafts, and that Greek language courses would be provided in the future. However, concerns were raised by NGOs about the lack of vocational training provided to victims of THB.

139. The NAP against THB for 2010-2012 foresees an annual evaluation of the Government-run shelter, including suggestions for improvement, to be co-ordinated by the Social Welfare Services in co-operation with the Asylum Service. Such an evaluation is currently underway, reportedly including a consultation of relevant governmental departments as well as NGOs. Further, the NAP against THB foresees the preparation of regulations for the operation of future shelters.

140. GRETA recognises the efforts of the Cypriot authorities in this area, but stresses the need to provide appropriate temporary accommodation to victims of THB. **GRETA urges the Cypriot authorities to ensure that safe and suitable accommodation is provided for all victims of THB.**

ii. Other assistance measures

141. Pursuant to Article 12 of the Convention, Parties must provide victims of THB with standards of living capable of ensuring subsistence, access to emergency medical treatment, the necessary medical or other assistance to victims lawfully resident within its territory who do not have adequate resources and need such help, as well as access to education for children, and access to the labour market, vocational training and education.

142. According to the Cypriot authorities, support services and financial aid are provided to victims of THB after they leave the shelter, for as long as it is needed. The GRETA delegation was informed that only identified victims are entitled to income support, although all victims, i.e. also potential, can access medical and psychological support if they reside permanently in Cyprus.

143. Medical care for victims is provided outside the shelter through the network of public hospitals. Other types of specialised medical assistance, which is provided upon the victim's request, are also available in public hospitals. However, concerns were expressed by NGOs about the availability of and access to psychological support for victims of THB.

144. Pursuant to Article 35 of Law 87, once victims from third countries are granted temporary residence permits, they have the right to access the labour market through officially approved employment agencies. They also have access to vocational training and education, and to programmes aimed at reintegrating them into society, provided either by the State or by NGOs. Companies can receive a year's subsidy covering 65% of labour costs if they hire staff from "vulnerable groups", which includes victims of THB. Further, temporary residence permits for THB victims carry no restriction of employment. However, access to employment for victims of THB remains a major problem and should be reviewed, in order to provide them with appropriate options that avoid the risk of re-trafficking. The NAP against THB includes the exploration of practical problems that arise in relation to victims' rights to employment as well as ways to resolve them.

145. The assistance process is managed by social welfare officers based in district offices and available on call around the clock. However, there is a single social services officer at each district office to handle all cases of victims of THB. The Cypriot authorities have reported that these officers benefit from an annual training programme and that, in 2010, the Social Welfare Services held a seminar on human trafficking which was attended by all social services officers who handle victims' cases, as well as by staff working at the shelter.

146. Concerns were raised by NGOs regarding the capacity of the Social Welfare Services to cover all parts of the assistance process for victims of THB, as well as the lack of availability of social welfare officers outside standard working hours (after 14.30), pointing to the need for the Social Welfare Services to have adequate resources. The possible allocation of a case worker to each victim of THB which the Cypriot authorities are reported to be considering, in the context of the evaluation of the shelter, could be a positive step forward.

147. The funding available for the assistance and protection of victims of THB is drawn from the Social Assistance Fund which covers the basic needs of recognised victims, estimated at 215 215 euros for 2010. The budget of the social welfare services also covers the operational costs of the shelter for victims of THB, amounting to 87 000 euros in 2010.

148. **GRETA considers that the Cypriot authorities should make further efforts to provide adequate assistance to all victims of THB, in particular psychological support as well as access to education, vocational training and the labour market.**

149. **In addition, GRETA strongly encourages the Cypriot authorities to conclude protocols of co-operation with NGOs in order to provide quality assistance to victims, complementing the services provided by the Social Welfare Services. The application of such protocols should be monitored and assessed.**

iii. Assessing the needs of victims of THB

150. Pursuant to the Convention, Parties should take account of the victim's safety and protection needs (Article 12(2)). The Explanatory Report argues that victims' needs can vary widely depending on their personal circumstances, such as age or gender, or circumstances such as the type of exploitation they have undergone, their country of origin, the types and degree of violence suffered, the isolation suffered from their family and culture, their knowledge of the local language, and their material and financial resources. 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)).

151. The NAP against THB for 2010-2012 includes plans for the Ministry of the Interior to co-ordinate research on the evaluation of victims' needs in relation to the services provided, which is to be carried out in co-operation with two NGOs and discussed in the Multidisciplinary Co-ordinating Group. This action could serve to tailor victims' assistance and protection to their needs and therefore increase the impact and efficiency of assistance measures. In addition, the NAP against THB foresees the conclusion of protocols of co-operation with NGOs for the protection and support of victims, to be co-ordinated by the Social Welfare Services.

152. GRETA considers that assistance and protection programmes should be implemented in accordance with the needs of victims of THB and meet certain quality standards, in order to ensure the victims' physical, psychological and social recovery and rehabilitation, both during their residence in Cyprus and in view of their possible return or repatriation to their country of origin. In this context, improving the vocational training of victims of THB, as planned for in the NAP against THB for 2010-2012, would be a positive development.

153. **GRETA considers that the Cypriot authorities should allocate the necessary resources to the planned research on the evaluation of victims' needs in relation to the services provided, so that it can be carried out in a comprehensive manner and take account of the research results.**

e. Compensation and legal redress

154. Article 15(2) of the Convention establishes the obligation for Parties to provide, in their internal law, for the right of victims of THB to legal assistance and free legal aid. Parties must also provide for the right of victims to compensation from the perpetrators of the THB, and must take measures to guarantee compensation for victims, in accordance with their internal law. A human rights-based approach to THB allows for effective prosecution of traffickers, putting the emphasis on the right to effective remedy for the victim. In this context, victims of THB have an international legal right to adequate and appropriate remedies.

155. Article 22 of Law 87 establishes that victims of THB have a right to compensation from the perpetrators, in addition to the latter's' civil liability to pay "special and general damages" to victims, including debts from the victims' labour exploitation.

156. Further, Article 23 of Law 87 provides that victims of THB have a right to State compensation, in accordance with the provisions and conditions of the Council of Europe Convention on the Compensation of Victims of Violent Crimes (which is restricted to victims who are Cyprus nationals or nationals of Council of Europe member States who are permanent residents in Cyprus). Further, the Council Framework Decision 2001/220/JHA of 15 March 2001 on the standing of victims in criminal proceedings provides victims of crimes with minimum rights to be exercised in relation to criminal proceedings, including compensation from the offender. Directive 2004/80/EC of 29 April 2004 relating to the compensation to crime victims allows victims of violent intentional crimes to receive State compensation irrespective of their country of residence or the EU Member State in which the crime was committed. These rules on access to compensation in cross-border situations operate on the basis of EU Member States' national schemes on compensation to victims of violent crimes committed in their territory.

157. Article 24(2) of Law 87 provides that the confiscation of proceeds from criminal activities related to THB are to be used to fund protection programmes, support, social integration, as well as the compensation of victims.

158. According to the Cypriot authorities, non-EU citizens have access to legal aid in Cyprus. Further, victims of THB can sue their traffickers on the basis of Article 22 of Law 87 through a civil action which may result in the award of general or special damages. The Cypriot authorities have reported that an amendment to the Law on Legal Aid currently in progress will allow victims of THB to file civil lawsuits against their traffickers.

159. Civil claims by victims of THB against Cyprus are also possible for human rights violations, even if no criminal proceedings take place, as the recourse to these civil claims for compensation is not related to prosecution. The Supreme Court of Cyprus has case law[28] stating that violations of the human rights protected under the Cypriot Constitution and the European Convention on Human Rights, even if committed by non-State actors, can give rise to a recourse against the perpetrator before domestic courts.

160. However, in practice there appear to be difficulties for victims of THB to receive compensation, such as lack of information regarding their right to compensation and how to exercise it, lack of access to legal aid, and their limited right to stay in the country.

161. GRETA notes that to date there has been no compensation granted to victims of THB and concludes that even though Cyprus has established legal provisions granting victims of THB the right of compensation, this right remains so far theoretical. This is also linked to the lack of convictions for THB (see paragraph 207).

162. **GRETA urges the Cypriot authorities to increase their efforts to provide information and legal assistance to victims of THB about their right to file a claim for compensation against the trafficker, and to ensure that victims have effective access to legal aid in this respect. Further, GRETA urges the Cypriot authorities to make their State compensation system accessible to all victims of THB, irrespective of their nationality and residence status.**

f. Repatriation and return of victims

163. The Convention requires Parties to establish repatriation programmes involving 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, including into the education system and the labour market. Parties must also make available to victims of THB 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 THB 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 (Article 16).

164. According to Article 30(3) of Law 87, expulsion orders cannot be enforced during the temporary residence permit for reflection. Article 44 of Law 87 establishes that the repatriation of victims must be carried out with due regard for their safety, protection and dignity, taking into account the status of legal proceedings and in co-operation with the country of origin, with the aim of avoiding re-victimisation. The police is involved in assessing whether it is safe for a victim to be repatriated and in some cases the repatriation does not take place due to safety reasons. However, there are no specific procedures nor guidelines to provide for the safe repatriation of THB victims and there is no responsible agency for this task. According to the Cypriot authorities, there are already procedures for repatriation included in the Aliens and Immigration Act and the Asylum Act. However, it is planned to clarify the issue of repatriation of victims of THB through a future amendment to Law 87.

[28] Case *Yiallouros v. Nicolaou* (see footnote n. 14).

165. There appears to be no specific return and repatriation programme for victims of THB in Cyprus, although the conclusion of an agreement with the International Organisation for Migration on issues of repatriation of victims of THB is included in the NAP against THB for 2010-2012. The Social Welfare Services have reportedly provided financial help to victims unable to cover the cost of returning to their countries of origin. The Cypriot authorities have indicated that nine victims of THB for sexual exploitation were repatriated in 2009, and 11 in the first ten months of 2010. In addition, 44 victims of THB for labour exploitation were repatriated in the first ten months of 2010.

166. **GRETA urges the Cypriot authorities to develop a clear institutional and procedural framework for the return and repatriation of victims of THB, having regard to their safety, protection and dignity, and in order to avoid their re-victimisation. In the case of children, a specific risk-assessment should be carried out, taking into account the best interest of the child.**

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

a. Substantive criminal law

167. 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).

168. THB is subject to a single criminal offence in Cyprus, which avoids the combination of several offences to cover the conduct falling within the definition of THB.

169. By virtue of the provisions of Law 87, the offence of THB is punished by a penalty of imprisonment for up to 15 years (Article 5), whereas the trafficking in children is punished by imprisonment for up to 20 years (Article 6). Article 7 of Law 87 provides for even harsher penalties for THB for the purpose of exploitation or sale of the person's human organs (imprisonment of up to 25 years or life imprisonment in case the victim dies as a result).

170. Law 87 also criminalises certain types of exploitation, in addition to the offence of THB. Articles 8 to 11 of Law 87 establish the criminal offences of exploitation of labour of an adult (up to 6 years' imprisonment) or a child (up to 10 years' imprisonment); the offence of sexual exploitation of adults (up to 10 years' imprisonment) or children (up to 20 years' imprisonment); and the criminal offence of child pornography. It should be recalled that the Convention requirement is limited to the criminalisation of THB and that it does not require to make offences any of the elements of THB taken individually, as clearly stated in the Explanatory Report. According to the Office of the Attorney General, the court decides on the application of Articles 5 to 11 of Law 87, by considering the most serious offence and deciding whether the sentences will be consecutive or concurrent.

171. Further, Law 87 includes a number of criminal offences related to the retention of personal documents linked to the crime of THB (including destroying, concealing, retaining or confiscating passports or other identity documents, such as residence permits, or other documents), which are punishable by up to five years' imprisonment and/or a monetary fine (Article 13).

172. The aggravating circumstances envisaged in Article 12 of Law 87 are: when the THB-related offence deliberately or by gross negligence endangers the life or causes grievous bodily harm to the victim, is committed against a "particularly vulnerable victim" (children under 12 and children with special needs) or within the framework of a criminal organisation). However, one aggravating

circumstance provided for in the Convention is omitted in Law 87, i.e. when the offence is "committed by a public official in the performance of his/her duties". This aggravating circumstance is included in the United Nations Recommended Principles on Human Rights and Human Trafficking, calling on States to exercise due diligence in identifying and eradicating public-sector involvement or complicity in THB, including investigating all public officials suspected of being implicated in THB and if convicted, appropriately punishing them[29]. Article 15 of Law 87 punishes the corruption of public servants with a maximum imprisonment of five years, a monetary fine, or both. However, this is not the same as an aggravating circumstance in case public officials themselves are the offenders for THB.

173. Law 87 provides for the confiscation of proceeds from criminal activities related to THB (see paragraph 157), but there have not yet been any convictions for the crime of THB. Further, GRETA notes that Law N° 61(I)/96 against Money Laundering provides for the confiscation and liquidation of any proceeds made from money-laundering offences and any other interim measure such as freezing or restraint orders**. GRETA would like to know whether there have been any cases of confiscation regarding THB-related activities.**

174. Article 25 of Law 87 provides the legal basis for extradition for THB offences, while Article 26 establishes the extension of the jurisdiction of Cypriot courts in case of THB offences committed on behalf of a legal person settled in Cyprus or carried out with the assistance of a computerised system (irrespective of whether such a system is situated on Cyprus' territory). Further, legal persons are liable for the offence of THB, which is in accordance with Article 22 of the Convention.

175. As regards the need to consider the criminalisation of the known use of services of trafficked persons, the Committee on Crime of Cyprus' House of Representatives has had discussions on the possibility of criminalising the clients of prostitution. A Parliamentary report is expected to be published on this issue. **GRETA would like to be kept informed of further developments**.

176. GRETA concludes that many of the substantive criminal law obligations stemming out of the Convention are incorporated into Cyprus' internal law. However, four years after the entry into force of Law 87, the application in practice of these provisions remains to be seen.

177. **GRETA urges the Cypriot authorities to include in Law 87 the aggravating circumstance of THB committed by a public official in the performance of his/her duties.**

b. Non-punishment of victims of THB

178. Pursuant to Article 26 of the Convention, Parties must provide for the possibility of not imposing penalties to victims of THB for their involvement in unlawful activities, to the extent that they have been compelled to do so. The Convention follows the United Nations Recommended Principles and Guidelines on Human Rights and Human Trafficking as they call on States not to detain, charge or prosecute victims of THB for the illegality of their entry into or residence in countries of transit and destination, as well as for their involvement in unlawful activities, to the extent that it was a direct consequence of their situation as trafficked persons[30].

179. Pursuant to Article 42 of Law 87, victims will not be criminally prosecuted for committing offences directly related to their status as victims of THB, provided that violence, coercion or abuse of power has been used (a requirement not applicable in the case of children). As regards in particular victims of THB who are third-country nationals, they will not be prosecuted for any offences perpetrated and directly related to their status as victims, specially in the event that the offences were committed as a result of their illegal entry, stay, employment, etc. In addition, Law 87 establishes that

[29] Principle 6 of the 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

[30] Principle 7 of the 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

if victims of THB are prosecuted for offences committed while being subject to trafficking (a situation which may arise if the victim of THB is not identified as such before the prosecution or if he/she pleads the status of THB victim at a late stage of the trial), it will constitute a defence that the offences were committed under threat or use of violence or other forms or coercion, abduction, deceit, fraud, abuse of power or exploitation of their vulnerable position.

180. The Cypriot authorities have reported that the non-punishment clause is used by the police and that several cases opened against victims of THB were abandoned by the Attorney General, including cases of assault and attempted murder of the trafficker by the victims. Further, GRETA has been informed that no victim of THB has been prosecuted for illegal stay in Cyprus or other offence to the extent that it was a direct consequence of her/his situation as a trafficked person. Out of the 52 identified victims in 2010, four were irregular migrants but there was no investigation conducted against them on the basis of immigration laws.

181. GRETA welcomes the inclusion in Cypriot legislation of the Convention's non-punishment provision and its application to protect victims of THB.

c. Investigations

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

183. In the *Rantsev v. Cyprus and Russia* case, the ECHR stated that Article 4 of the European Convention on Human Rights entails a procedural obligation to investigate situations of potential THB, as once the matter has come to the attention of the authorities they must act of their own motion[31]. Such investigations must be capable of leading to the identification and punishment of the individuals responsible[32]. Further, the ECHR has stressed that THB is a problem often not confined to the domestic arena, and therefore the obligation to conduct a domestic investigation is supplemented with a duty to co-operate effectively with the relevant authorities of other States concerned in the investigation of events which occurred outside their territories[33] (see paragraph 72).

184. THB is investigated by the Criminal Investigation Departments (CID) of the police in each of the six police districts of the country. The Office for the Prevention and Combating of THB plays a central role in this field (see paragraph 27) and its responsibilities related to investigations include the gathering, processing, analysis and use of intelligence, and co-ordination and advice on actions carried out by the CID on THB cases.

185. According to information provided by the Cypriot authorities, the police plays an important role in detecting trafficking cases: 24 out of 52 victims identified in 2010 were found by the police (a further 18 victims went to the police by themselves and 10 victims were referred to the police by NGOs). GRETA considers that active investigations to bring to light possible cases of THB should be maintained, including inspection operations in sectors such as entertainment, tourism and agriculture, as well as possible cases of trafficking of domestic workers.

186. Investigators working on THB cases are allowed to use investigative techniques such as phone tapping, which has recently been authorised for the investigation of certain crimes, including THB, following an amendment of the Cypriot Constitution. Special investigative techniques, such as informants, are also allowed. The Government of Cyprus is reportedly considering legal amendments

31 *Rantsev v. Cyprus and Russia*, no. 25965/04, ECHR 2010 (paragraph 288).

32 Id.

33 Id, at paragraph 289.

which will enable the use of hearsay in criminal cases, as well as phone tapping evidence, disclosure of phone numbers, etc. It should also be noted that the Cypriot police participates in the Analysis Work File on THB created and administrated by Europol ("Phoenix"), the purpose of which is to support EU Member States in investigations on THB cases through the exchange of data and analysis.

187. In order to detect THB for the purpose of sexual exploitation, the police organised raids in cabarets which were the main places where THB for the purpose of sexual exploitation was found. However, since the "artiste visa" regime was abolished, the number of cabarets is said to have halved and the Cypriot authorities have reported that police raids in cabarets have decreased due to the relocation of trafficking activities to other places. According to the Cypriot authorities, between February 2009 and February 2010, the police conducted 95 anti-trafficking raids and 20 undercover operations on establishments suspected of THB. The Department of Labour is responsible for inspecting work premises associated with the new "performing artist" work permits, but inspectors do not work outside office hours, which is when cabarets, bars and pubs operate.

188. One of the priorities of the NAP against THB for 2010-2012 is to identify gaps in the investigation procedure and the presentation of cases in court, as well as to make proposals to increase convictions. This implies recognition of the limitations in the criminal investigations and court procedures, and the need to obtain convictions for THB on the basis of Law 87. In addition, the NAP against THB calls for a review and modernisation of the procedure for investigating cases. The NAP also includes an action requesting the police to address the interviewing and handling of potential victims on the basis of the general principles of victims handling, an action which should address the main shortcomings identified in this report as regards the treatment of victims of THB during the investigation and criminal procedures (see paragraphs 198 and 199).

189. GRETA notes that the Independent Authority for the investigation of allegations and complaints against the police was set up in 2006. It is competent to investigate complaints against the Police regarding human rights violations, bribery allegations and any action that could be considered to disturb the reputation of the Police. The investigation of complaints is carried out by independent investigators and the five-member Board of this Independent Authority decides on the outcome of the investigations and the files to be forwarded to the Attorney General. To date, this Authority has not dealt with any cases of THB, but the number of complaints continues to rise every year and the Independent Authority could play an important role in relevant cases of THB.

190. GRETA concludes that the proactive investigation of potential THB cases by the police should be stepped up. In this context, GRETA wishes to stress the importance of making use of the investigation techniques available, such as phone tapping and informants, so that crimes related to THB can be investigated and prosecuted effectively.

191. **GRETA urges the Cypriot authorities to:**

- **step up the proactive investigation of potential cases of THB, including by labour inspectors, in sectors such as entertainment, tourism, agriculture and domestic work;**

- **prioritise the identification of gaps in the investigation procedure and the presentation of cases in court, as well as proposals to increase convictions.**

d. Prosecution and procedural law

192. 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 (Article 30).

193. Regarding the initiation of criminal proceedings, once the criminal investigation is concluded, the case is transmitted to the Office of the Attorney General of Cyprus, which has the power to institute, conduct, take over and continue or discontinue any proceedings for an offense against any person in Cyprus (Article 113(2) of the Cypriot Constitution).

194. There appears to be no possibility for an NGO, association or group to assist or support the victims to participate in legal proceedings. As previously mentioned, victims of THB have the possibility to lodge a civil claim for compensation against the traffickers, however, it seems that many are not made aware of this possibility or of their entitlement to legal aid in order to do so, as established by Article 34(1)(g) of Law 87.

195. Following the adoption of Law 87, and due to the higher penalties provided for the offence of THB, in principle such cases have to be dealt with by the assize courts, composed of three judges (instead of by single-judge district courts, which have jurisdiction for criminal offences penalised with up to five years' imprisonment). However, the Attorney General has the discretion to introduce THB cases in district courts if the circumstances of the case indicate that the conviction may not go over five years. It appears that this option is often used, given the lack of convictions for the crime of THB, while there have been convictions for offences against morality under the Criminal Code. Another important implication of the choice of type of offence is the fact that corroborative evidence is not required to prove the offence of THB, as established in Article 4(3) of Law 87, unlike offences covered by the Criminal Code, which need corroboration of the victim's testimony by other material evidence or testimony in court.

i. The role of THB victims as witnesses in court

196. The testimony of victims as witnesses is an essential element for the prosecution of offences included in the Criminal Code. As confirmed by both the police and the Office of the Attorney General, criminal cases brought to the court where the witness cannot testify are withdrawn. This underlines the importance for victims of THB to remain in Cyprus during the criminal proceedings, and the reason for giving co-operative victims residence permits for the duration of the legal.

197. Victims of THB need to remain in Cyprus while they wait for the trial, often for two or three years, as court proceedings are subject to adjournments. As a result, many victims return to their countries of origin before the end of the court proceedings. This has direct consequences for the prospects of successful prosecution, and may be regarded as one of the reasons for the low number of convictions related to THB cases.

198. Given the need to secure the presence of THB victims and the fact that to date they have all been foreign nationals, it would be advisable to encourage the judiciary to consider and treat THB cases as a priority, in order to limit as much as possible the delays and adjournments. GRETA takes note of the communication from the General Attorney to the President of the Supreme Court, regarding the implications of the length of time of court proceedings and hearings on THB cases, and suggests that giving priority to THB cases would be a positive way to tackle this issue. In addition, the testimony of victims of THB could be secured through assistance and protection programmes, as well as through support for victims to travel back to Cyprus in order to testify in court. Moreover, victims who choose to stay and testify often lack information on the court proceedings and their own role therein, as well as on their status if the court case falls through.

199. The other main difficulty for prosecuting the traffickers, according to the police and the Office of the Attorney General, lies in the fact that district court judges often consider the testimony of victims of THB as non-credible. Many proceedings have reportedly ended in acquittals on the basis of conflicting statements by victims of THB and their perceived lack of credibility as witnesses during the trials.

200. GRETA is concerned by the difficulties regarding victims' testimonies in court and their perceived lack of credibility. The former could be addressed by facilitating the victims' stay in Cyprus for the duration of the criminal proceedings, and the latter through training (see paragraph 64) and by using proactive investigative techniques so that there is no need to rely only on the testimony of the victim. In addition, for those cases where THB victims have returned to their countries of origin before court proceedings, the Cypriot authorities should increase their efforts to help them return to Cyprus to testify in court, in particular through co-operation with the competent authorities in the countries of origin.

ii. Protection of THB victims during legal proceedings

201. By virtue of Article 28 of 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 protection, relocation, identity change, etc.) and is to be provided to victims of THB, to persons who report THB cases 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. Appropriate protection against retaliation or intimidation, during and after the investigation and prosecution of traffickers, is also required for members of groups, associations or NGOs which assist victims of THB during criminal proceedings.

202. In Cyprus, victims of THB who decide to co-operate with the prosecuting authorities in criminal proceedings are considered witnesses and are subject to protection under the Law No.95(I)/2001 on Protection of Witnesses. Article 5 of this Law provides for special protection measures for witnesses during trials, such as holding the trial behind closed doors, use of special screens, CCTV, etc. Further, Article 16 provides for the establishment of a programme for the protection of witnesses and collaborators of justice, under the control and supervision of the Attorney General, who decides on the persons who enter the programme, the kind of protection that they should be granted, and the specific protection measures to be applied. In addition, according to the Office of the Attorney General, witness protection is available from the early stages of the investigation, and a dedicated police unit is in charge of the protection of witnesses.

203. Article 41 of Law 87 requires the prosecuting authorities to provides measures to ensure a sufficient level of safety and protection of the private life of victims of THB and their families, as appropriate, in the event that there is a serious risk from retaliation or a potentially serious and intentional disturbance of the private life of the victim. In addition, the prosecuting authorities are obliged to inform the victim when the person prosecuted or convicted for THB is released, as deemed necessary and at least in cases where the victim has co-operated with the authorities. According to the Cypriot authorities, after victims of THB leave the shelter, they stay in communication with social workers, who report to the Police any difficulties or issues related to the victim's safety. However, according to NGOs, victims are not adequately protected as once their co-operation with the authorities ends, so does their residence permit and they are returned to their countries of origin.

204. In addition, Article 40 of Law 87 establishes that victims of THB have the right to be informed of developments in the criminal proceedings and of the decision issued by the court. However, it would appear that the protection provided to victims/witnesses under the witness protection programme is apparently limited to the first month spent in the shelter and the police only accompanies witnesses to court, with no real protection the rest of the time. Criticism has also been raised about the lack of information to victims/witnesses before the trials and the fact that they are not sheltered from traffickers before nor during the trials, and are thus subject to intimidation from them.

205. According to Cypriot authorities, several victims have refused to enter the witness protection programme and have declined other measures which can be taken to protect them, such as patrolling, change of telephone and accommodation, because they want to regain their freedom and escape from the situation of victimisation. However, the Cypriot authorities have stressed that in case a victim is in a situation of real danger, the police would suggest to the Attorney General the inclusion of that person into the witness protection programme.

206. GRETA concludes that measures to protect victims' private life, identity and safety, as well as to prevent intimidation, during and after the investigation and prosecution of traffickers, should be taken, including through holding trials *in camera*, where appropriate. In particular, the Cypriot authorities should consider the reasons why victims may refuse witness protection and assess the adequacy of applying general witness protection programmes to the specific circumstances and experiences suffered by victims of THB. The full application of information, protection and assistance measures to victims in the preparation and conduct of court proceedings would provide more incentives for victims of THB to stay in Cyprus and testify, helping to secure convictions against the traffickers.

iii. Convictions

207. According to the Office of the Attorney General, even after the adoption of Law 87, all convictions for THB-related offences have continued to be made on the basis of the Criminal Code. The Criminal Code (Chapter 154) is applied in THB-related cases as the courts have used provisions regarding crimes against morality (e.g. suppression of brothels, procuration) to prosecute suspected traffickers. The statistics provided by the Cypriot authorities show that 51 criminal proceedings were initiated on grounds of THB in 2008, and 34 in 2009. The number of convictions were 11 in 2008 and two in 2009. None of these convictions were secured on the basis of Law 87. In 2010, 25 out of 35 investigated cases of THB were initiated pursuant to Law 87, and 10 on the basis of the Criminal Code.

208. The charge of THB is reportedly often used as a bargaining element in order to get convictions for misdemeanours, which carry lesser penalties. This would explain why all convictions in THB-related cases have so far been obtained on the basis of the Criminal Code and not for the offence of THB as established by Law 87. Investigations on THB cases carried out under Law 87 have obtained convictions for other crimes, but not for THB.

209. GRETA considers that the training of law enforcement personnel and the judiciary is critical to obtaining indictments and securing convictions, in particular on the basis of Law 87. This training should be organised for police officers, prosecutors and judges and without prejudice of the independence of the judiciary, which also needs to be informed of the trends and particularities of THB as a relatively new criminal phenomenon. This is in line with the NAP and also in accordance with Principle 8 of the "Magna Carta of Judges", adopted by the Consultative Council of European Judges on 17 November 2010[34].

210. **GRETA considers that the Cypriot authorities should:**

- **encourage the Office of the Attorney General to use Law 87 to pursue convictions for the offence of THB and to send THB cases to the assize courts;**

- **encourage the judiciary to limit the delays and adjournments to the maximum so that the waiting time of THB victims is significantly reduced;**

[34] According to this principle, training is an important element to safeguard the independence of judges as well as the quality and efficiency of the judicial system, 17 November 2010, Council of Europe [CCJE (2010)3 Final].

- **ensure that victims of THB are adequately informed, protected and assisted during court proceedings;**

- **take measures to protect victims' private life and safety, including protection from intimidation, through holding trials *in camera* for THB cases, where appropriate;**

- **facilitate the stay in Cyprus of victims of THB so that they can testify and exercise their rights to compensation and redress;**

- **assist victims of THB who return to their countries of origin before the court proceedings to travel back to Cyprus in order to testify in court.**

211. **Furthermore, GRETA invites the Cypriot authorities to:**

- **conduct a thorough assessment of the effectiveness of Law 87 and the reasons for its limited application;**

- **address the recurring consideration by courts of THB victims/witnesses as non-credible.**

5. Concluding remarks

212. GRETA welcomes the affirmations of the Cypriot authorities that THB is considered as a human rights violation in Cyprus. That said, GRETA notes that there has not been a single conviction for the criminal offence of THB, four years after the entry into force of Law 87, and that the first civil action initiated by a victim of THB is still pending. Furthermore, no victims of THB have received compensation either from the State or from the offender. This raises concerns about the effectiveness of the existing legislation and its implementation.

213. GRETA considers that the Cypriot 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 ensure that all victims of THB are properly identified, in particular by setting up a coherent national referral mechanism to protect and promote the human rights of trafficked persons which ensures co-ordination of relevant actors. Further steps should also be taken to empower victims of trafficking by enhancing their rights to adequate protection, assistance and redress. Improved co-ordination, co-operation and partnerships among governmental agencies, NGOs and other members of civil society in Cyprus are crucial to make progress against THB. This will require an increased investment in human and financial resources.

214. In addition, all relevant officials and professionals in contact with victims or potential victims of THB, including law enforcement officials, prosecutors, judges, labour inspectors and social workers, should be adequately informed and trained about 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.

215. GRETA invites the Cypriot 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 Cypriot Government for achieving the purposes of this Convention.

Appendix I: List of GRETA's proposals

Core concepts and definitions

1. GRETA urges the Cypriot authorities to ensure that:

   - the principle according to which the consent of the victim is irrelevant when one of the means listed in the Convention has been used applies in all dimensions of the identification, protection and assistance of victims of THB and not only in the context of criminal proceedings;

   - no additional conditions of damage or loss, and in particular no evidence of such damage or loss, are required from a person who has been subjected to THB in order to qualify as a victim of THB under Law 87, and to benefit from the protection measures provided for in this law.

Comprehensive approach, co-ordination and international co-operation

2. GRETA considers that the Cypriot authorities should:

   - step up their efforts to address THB for the purpose of labour exploitation in their prevention and prosecution policies. In addition, GRETA strongly encourages the Cypriot Government to pursue plans to develop a specific National Action Plan for child victims of THB;

   - strengthen the co-ordination among governmental agencies, NGOs and other members of civil society active in the field of action against THB and the protection of victims. This should involve the conclusion of written agreements between governmental departments and NGOs setting out the specific framework for co-operation on issues related to THB, as well as periodic reviews of their application;

   - explore further possibilities of international co-operation in the fields of protecting and assisting victims of THB, and the investigation and prosecution of trafficking cases, *inter alia* in order to prevent re-trafficking.

3. In addition, GRETA invites the Cypriot authorities to:

   - ensure that the annual and *ex post* evaluations of the implementation of the NAP against THB for 2010-2012 are carried out, and that the results of these evaluations are duly taken into account in future policies to combat THB;

   - consider commissioning an independent external assessment of the application of the NAP against THB for 2010-2012;

   - consider increasing the human and financial resources of the Police Office for the Prevention and Combating of Human Trafficking so that it can carry out the full range of tasks within its mandate.

Training

4. GRETA considers that the Cypriot authorities should step up their efforts to provide specialised and systematic training to all relevant professionals, such as law enforcement officers, border guards, consular officers, labour inspectors and social welfare officers, including with a view to improving the identification of victims of THB for labour exploitation and emerging new forms of THB.

5. GRETA also invites the Cypriot authorities to:

- design future training programmes with a view to improving the knowledge and skills of relevant professionals in order to enable them to better identify, protect and assist victims of trafficking. During the training, particular attention should be paid to overcoming negative attitudes and prejudices vis-à-vis victims of trafficking;

- give priority to the actions of the NAP against THB for 2010-2012 concerning the training of judges and public prosecutors on THB issues.

Data collection and research

6. GRETA encourages the Cypriot authorities in their plans to introduce a comprehensive and coherent data collection mechanism that would make it possible to share information among the main actors in the fight against THB, while respecting the rights of data subjects to personal data protection. Statistical data should be disaggregated (into gender, age, type of exploitation, etc.) and its collection should be designed in a way that enables the authorities to determine the scale of the problem and the most appropriate measures to be taken with regard to the different forms of THB and groups affected.

7. In addition, GRETA invites the Cypriot authorities to continue conducting and supporting research as an important source of information for future policy measures in the field of action against THB.

Prevention of THB

8. GRETA urges the Cypriot authorities to:

- improve the information provided to potential migrant workers to alert them about the risks of THB;

- closely monitor the application of the visa regimes for performing artists, bar tenders and other groups at risk (such as domestic workers, agriculture workers and *au pairs);*

- step up police control of entertainment venues where cases of THB for sexual exploitation may be found;

- step up police and labour inspections aimed at identifying cases of labour exploitation.

9. Further, GRETA considers that the Cypriot authorities should:

- design future actions in the area of awareness raising and education on the basis of the assessment of previous measures, reliable data and research, which should enable the authorities to focus on the needs identified. Increased emphasis should be placed on changing social attitudes towards victims of THB. The success of these efforts will depend on efficient data collection, adequate funding and regular evaluation;

- plan future information and awareness-raising campaigns to prevent THB with the involvement of civil society, including NGOs;

- take specific measures to discourage demand for the services of trafficked persons, targeting in particular the most common forms of THB in the country;

- co-operate with the main countries of origin of victims of THB to alert potential victims of THB-related risks;

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

- take due account of THB risks and include preventive measures, such as information, in the revised policy on domestic workers and their labour disputes;

- consider the THB-related risk of the requirement that ties migrant workers to their employers.

Identification of victims of THB

10. GRETA urges the Cypriot authorities to review the identification system for victims of THB and its application.

11. Furthermore, GRETA considers that the Cypriot authorities should:

- set up a coherent national referral mechanism which ensures co-ordination between all actors involved in identifying trafficked persons;

- ensure that clear instructions are given to all relevant officials involved in the identification of victims of THB in order to avoid any *de facto* link between the identification of victims and their willingness to co-operate with the authorities.

Recovery and reflection period

12. GRETA urges the Cypriot authorities to strictly apply the reflection period to all persons for whom there are reasonable grounds to believe that they may be victims of THB.

Information to victims and potential victims of THB

13. GRETA urges the Cypriot authorities to provide victims of THB with information on their legal rights and obligations, including the reflection period, the services and assistance measures available and how to access them, the right to compensation, and the protection and assistance measures available to recognised victims of THB who may not wish to co-operate with the authorities. In this context, information materials on the rights of potential and identified victims should be drawn up in an appropriate range of languages.

Assistance measures

14. GRETA urges the Cypriot authorities to ensure that safe and suitable accommodation is provided for all victims of THB.

15. GRETA urges the Cypriot authorities to increase their efforts to provide information and legal assistance to victims of THB about their legal right to file a claim for compensation against the trafficker, and to ensure that victims have effective access to legal aid in this respect. It also urges the Cypriot authorities to make the State compensation system accessible to all victims of THB, irrespective of their nationality and residence status.

16. GRETA considers that the Cypriot authorities should make further efforts to provide adequate assistance to all victims of THB, in particular psychological support, as well as access to education, vocational training and the labour market.

17. In addition, GRETA strongly encourages the Cypriot authorities to conclude protocols of co-operation with NGOs in order to provide quality assistance to victims, complementing the services provided by the Social Welfare Services. The application of such protocols should be monitored and assessed.

18. Further, GRETA considers that the Cypriot authorities should allocate the necessary resources to the planned research on the evaluation of victims' needs in relation to the services provided, so that it can be carried out in a comprehensive manner, and take account of the research results.

Repatriation and return of victims

19. GRETA urges the Cypriot authorities to develop a clear institutional and procedural framework for the return and repatriation of victims of THB, having regard to their safety, protection and dignity, and in order to avoid their re-victimisation. In the case of children, a specific risk-assessment should be carried out, taking into account the best interest of the child.

Substantive criminal law

20. GRETA urges the Cypriot authorities to include in Law 87 the aggravating circumstance of THB committed by a public official in the performance of his/her duties.

Investigation, prosecution and procedural law

21. GRETA urges the Cypriot authorities to:

- step up the proactive investigation of potential cases of THB, including by labour inspectors, in sectors such as entertainment, tourism, agriculture and domestic work;

- prioritise the identification of gaps in the investigation procedure and the presentation of cases in court, as well as proposals to increase convictions.

22. GRETA considers that the Cypriot authorities should:

- encourage the Office of the Attorney General to use Law 87 to pursue convictions for the offence of THB and to send THB cases to the assize courts;

- encourage the judiciary to limit the delays and adjournments to the maximum so that the waiting time of THB victims is significantly reduced;

- ensure that victims of THB are adequately informed, protected and assisted during court proceedings;

- take measures to protect victims' private life and safety, including protection from intimidation, through holding trials *in camera* for THB cases, where appropriate;

- facilitate the stay in Cyprus of victims of THB so that they can testify and exercise their rights to compensation and redress;

- assist victims of THB who return to their countries of origin before the court proceedings to travel back to Cyprus in order to testify in court.

23. Furthermore, GRETA invites the Cypriot authorities to:

- conduct a thorough assessment of the effectiveness of Law 87 and the reasons for its limited application in practice;

- address the recurring consideration by courts of THB victims/witnesses as non-credible.

Appendix II: List of the national authorities, public bodies and non-governmental organisations with which GRETA held consultations

National authorities and other public bodies

- Ministry of the Interior
- Ministry of Justice and Public Order
- Ministry of Foreign Affairs
- Ministry of Labour and Social Insurance
- Ministry of Education and Culture
- Ministry of Health
- Attorney General's Office
- Police Office for Combating Trafficking in Human Beings
- Office of the Ombudswoman
- Commissioner for Children's Rights
- National Machinery for the Rights of Women
- House of Representatives
- Independent Authority for the Investigation of Complaints and Allegations concerning the Police
- Cyprus Bar Association
- Cyprus Tourism Organisation

Non-governmental organisations

- Cyprus Stop Trafficking
- INDEX Research and Dialogue
- KISA
- Mediterranean Institute of Gender Studies
- Pregnancy Care Centre
- Stigma

Government's comments

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

GRETA engaged in a dialogue with the authorities of Cyprus 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 Chypriot authorities on 8 July and invited them to submit any final comments within one month. The Chypriot authorities' comments, submitted on 10 August 2011, are reproduced hereafter.

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

First evaluation round

REMARKS OF THE REPUBLIC OF CYPRUS

A. INTRODUCTION

The Republic of Cyprus expresses its appreciation to the GRETA Group of Experts on Action against Trafficking in Human Beings (THB), regarding the efforts to produce a fair and constructive report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Cyprus and welcomes the comments and recommendations made in this Report. We also wish to express our thanks to GRETA for accommodating most of our comments on the first draft of the Report.

This paper includes general remarks on the aforesaid Report (Part B), as well as updated relevant information. Furthermore, it includes specific comments made by the Office of the Attorney General (Part C). Finally, a document stating the progress on the implementation of the National Action Plan 2010-2012, is attached to this paper.

B. GENERAL REMARKS / UPDATED INFORMATION

B.1 Since the Republic of Cyprus considers the participation of NGOs in its efford to combat THB as vital, it proceeds to the amendment of the anti-trafficking law, in order to allow the increased participation of NGOs in the Multidisciplinary Coordinating Group. It is noted that the amending bill has already been submitted to the Attorney General for legal vetting. We expect that by the end of 2011 the bill will be submitted and approved by the House of Representatives.

B.2 Regarding the abolishment of the “artiste visa”, we consider this as a positive development, since it proves that Government is making sincere and serious efforts to establish legal and administrative procedures that will effectively contribute to the elimination of the possibility of abuse for unlawful purposes. Nonetheless, it is widely known that traffickers are always one step ahead of the Authorities, since THB is a continuously reforming crime that easily adjusts to new conditions, and to this end the Republic of Cyprus remains alert on this matter.

B.3 Concerning the repatriation procedures, awareness-raising on demand and the low convictions numbers, as well as other issues covered by the anti-trafficking law, we wish to stress out that a number of gaps have already been identified and this is reflected in the planned actions of the National Action Plan (NAP). Furthermore, we are at present undergoing an amendment of the relevant law, so as to fully comply with the recently adopted EU anti Trafficking Directive and at the same time to thoroughly assess the effectiveness of the Law in order to identify and address possible shortcomings.

B.4 Furthermore, in regard to training of the judges, it must be noted that a training seminar is planned in October 2011 in collaboration with the Cyprus Supreme Court and the American Embassy in Nicosia. The instructor will be an American expert on the issue working at the moment in an international NGO.

B.5 On the issue of introducing an Action Plan specifically for children victims of THB, we would like to stress out once again that Social Welfare Services have commenced the procedures to achieve this and at the moment are in cooperation with other government authorities, NGOs, as well as the Commissioner for Children's Rights, in order to put together a proposal for a cohesive national policy on this particular matter. GRETA will be informed on the conclusion of this procedure.

B.6 We consider the consistent and comparative data as a very important tool, both to combat and prevent THB. In parallel with the national actions already reported to GRETA, Cyprus is at the moment considering cooperation with other Member States of the European Union on sharing a common system of data collection, including common methods, indicators, etc.

B.7 A further development in increasing and improving the information provided to potential victims is the dissemination of two types of leaflets through our consular authorities and locally by other Public Services. The dissemination through the consular authorities is now available in Nigeria, Cameroon, Greece (Athens and Thessaloniki), Germany, Lebanon, Romania, Syria, Egypt, Ghana, Ukraine, the United Kingdom, Russia (Moscow and Saint Petersburg), Kenya, Armenia, Belarus, India, Sri Lanka, South Africa, Bulgaria, Bangladesh, Israel, Iran, Indonesia, Libya, the United States of America, France, China, Pakistan, Philippines, the Czech Republic and Moldova. The first leaflet contains information on the rights and obligations of migrants and is available in Greek, English, Russian, Arabic, Romania and Sinhalese. The second one includes definitions of THB, information about the Law, the main forms of THB, basic ways of protection against THB, basic indicators for THB, available assistance and victims' rights and contact information on governmental and non-governmental organisations. The leaflet is available in Greek, English, Romanian, Bulgarian, Russian, Arabic and Spanish.

C. COMMENTS MADE BY THE OFFICE OF THE ATTORNEY GENERAL (AG)

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

§34. We wish to have specific information about the civil action that is referred in this paragraph and the source of this information. The role of the AG according to the Cyprus Constitution is to prosecute. Since this is a private action and the AG is not a party to these proceedings it's impossible to ascertain the credibility of the information given to you. Moreover, we are also very interested to know the outcome of this case.

§39. There is no provision in our Law which implies in any way that the legal sale (trafficking) of human organs is prohibited. According to our legal system if something it's not prohibited by law specifically, then it is assumed to be permitted!

Article 7 of the **Law 87(I)/2007** penalises the exploitation or sale of vital organs. This could not be feasible without the actual removal of the human organ. The offence provided in article 7 it's two tier i.e. first in paragraph (a) reflects the part of the definition of "Trafficking in human beings" as stipulated in the Convention, hence: it is illegal to: **recruit, transport, transfer, harbour or receipt persons,** by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, **for the purpose of exploitation**. **Exploitation shall include**, 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.**

Thus Article 7 penalises the actual exploitation of a human being caused via trafficking for the purpose of the removal of someone's organs or the exploitation of his organs.

Paragraph (b) provides that any person who in the commission of the offences established in subsection (1) of this article causes either deliberately or through omission, the death of the victim is guilty of a felony and, in the event of his conviction, is liable to imprisonment for life.

§40. GRETA states:

> "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. Article 16 of Law 87 states that "the fact that the victim consents to the commission of the illegal act that constitutes an offence or that the victim receives any pecuniary or other reward for it, does not constitute defense for the defendant". **This provision indicates that traffickers cannot use the alleged consent of THB victims to defend themselves in the framework of criminal proceedings. This does not fully reflect the Convention's approach to the issue of consent, which is also to be applied outside the criminal law context, namely in the identification, protection and assistance of victims.".**

The AG's Office believes that the above statement is farfetched. We believe that the defense of the victim which allows him or her not to be punished for any criminal offences that occurred during his/her status as a victim is irrelevant with the identification process. For the identification process we have

already sent to you the relevant articles of the Law 87(I)/2007. Our system provides for legal certainty. The provisions of the Law could not have been clearer.

PART III – Recognition and Protection of Victims, can be separated in three different stages let's say according to the position of the victim in that particular time. So there are provisions for:

1. Victims that have not been identified yet, but are considered "as possible victims", **2.** Victims that have been identified as such and are in the reflection period as to assess whether they wish to cooperate with the judicial authorities for the prosecution of the offenders, and finally **3.** Victims who have decided to cooperate with the authorities.

Section 28 of Law 87(I)/2007: Provides the applicable basic principles governing the protection of victims belonging to all three stages.

The measures provided in this Law for the protection of victims, apply to natural persons who have been a victim or they are victims-

(a) even in the case where the victims in question are nationals of a third country and entered or reside in the Republic contrary to the provisions of the Aliens and Immigration Law, Cap 105·

(b) regardless of how much they collaborate with the prosecuting authorities for the prosecution of the offenders·

(c) without prejudice to the rights, the obligations of the Republic and any person under international law, including the international humanitarian law and the international law on human rights and in particular, where it is applicable, the Convention relating to the Status of Refugees made in Geneva, on the 26th July 1951 and includes the Protocol that was ratified with the Protocol on the Status of Refugees (Ratifying) Law of 1968 and the Refugee Law, as amended from time to time, the principle of non refoulement, as defined therein.

(d) in such a manner that it does not constitute discrimination against persons on the grounds that they are victims within the meaning of this Law, and according to the principle of prohibition of discrimination as defined in the Constitution and the Laws of the Republic.

So in the **first stage Section 29** provides that:

(1) In the case where a service involved or the non-governmental organisation is of the opinion or reasonably suspects that a person is a victim under the provisions of this Law, it shall refer the person to the Social Welfare Services who shall inform him/her of his/her rights and the services under this Law, and they shall refer him directly to the Police, which is the competent authority to determine and identify whether the said person is a victim.

(2) On the basis of subsection (1) of this article, the Social Welfare Services provide the victim (or possible victim) the information that they require, in a language they can understand, in order to protect their interests as victims, which may, where possible, be given in writing, and which include the following at least:

(a) the name of the state services or non-governmental organisations to which they may have recourse so they may be given support,
(b) the type of support they are entitled to receive,
(c) the procedure in relation to submitting their complaint to the prosecuting authorities, the judicial procedure for such cases and their role within the scope of these procedures,
(d) the terms and the procedure on the basis of which they may enjoy security and protection,
(e) the extent and the terms on the basis of which they are provided with legal advice and/or legal aid,
(f) the conditions on the basis of which they are entitled to compensation under article 22 of this law, and
(g) the mechanisms available to defend their interests in the event they reside in another state or in the event of their repatriation.

(3) The information provided in subsection (2) may be provided by a non-governmental organisation, if this is established in the protocol for cooperation between it and the service involved.

The second stage is reflected in **Section 30** where the Immigration Officer shall grant, without a fee, a third country national who is a victim, even though he has entered or resides in the Republic unlawfully, a temporary residence permit for the purpose of being granted a reflection period, which will allow him to recover and escape the influence of the perpetrators of the offences established in this Law, so that he may take a decision, with full knowledge of his rights, as to whether he wishes to cooperate with the prosecuting authorities to investigate the offence or the judicial procedure.

(2) The abovementioned residence permit for reflection is for a period of at least one month and may be renewed, also without a fee, provided the Immigration Officer deems it necessary, taking into particular account the best interests of the child in the event the victim is a minor. (3) For the duration of the period of the temporary residence permit for reflection, the national of the third country has access to medical treatment provided in section 34 in this Law and no expulsion order may be enforced against him.

Section 31 (1) For the duration of the period of the temporary residence permit for reflection or of the work permit, depending on the case, the victims have the rights determined in sections 34 to 38 of this Law.

You can refer to these sections in the translated text of the Act that we have already sent to you.

Stage 3 is provided in **Sections 40-44** where the victim apart from the benefits in health care, accommodation, employment and education he or she is provided with extra protective measures.

(ii) Make it clear that victims do not need to have suffered damage or financial loss as a result of THB in order to be recognised as such: We have already explained this issue in pages 2-5 of this paper.

Moreover, Law 87I)/2007 implements the EU's **COUNCIL FRAMEWORK DECISION of 15 March 2001 on the standing of victims in criminal proceedings** (2001/220/JHA), where "victim" shall mean a natural person who has suffered harm, including physical or mental injury, emotional suffering or economic loss, directly caused by acts or omissions that are in violation of the criminal law of a Member State".

(iii) Clearly separate the procedure of identification of victims of THB from their willingness to co-operate with the authorities:

It is already explained that victims or possible victims have the rights provided in the THB Convention even before their decision to cooperate with the authorities. This is also the core idea of the reflection period which according to the EU Directive 2004/81 it's a period given to victims to decide **whether** they are going to cooperate with the authorities.

b. Reflection period and residence permits

Section 34 of the Law 87(I)/2007 provides that:

> "Any natural person who has been identified as a victim, irrespective of his nationality and as to whether he wishes to be a prosecution witness in the offences established in this Law, before the issue and for the duration of the period of a temporary residence permit for reflection, has the right:
>
> (a) to information in accordance with the provisions of article 29 of this Law,
> (b) to public assistance, if he does not have sufficient resources, in accordance with the provisions of the Public Assistance and Services Law, as amended from time to time,
> (c) of access to emergency medical treatment and further free medical treatment, if he does not have sufficient resources, from the Ministry of Health,
> (d) to treatment and psychological support, if deemed necessary, and if the victim is a child, a pregnant woman, a person with special needs and/or a victim of the offences established in this Law or of the offences committed under aggravating circumstances within

the meaning of article 12 of this Law, to treatment and psychological support from the Ministry of Health,
(e) to safety and protection from the Police,
(f) to free translation and interpretation services, if deemed necessary,
(g) to legal aid if the conditions set out in the Legal Aid Law, as amended from time to time, are satisfied,
(h) to protection of their personal data in accordance with the provisions of the Processing of Personal Data (Protection of Individuals) Law, as amended from time to time, and
(i) of access to programmes or systems provided by the state or non-governmental organisations that have a protocol of cooperation or special agreements with the services involved in the Republic, depending on the case, whose aim is to integrate the victims into society, which may include lessons to improve their professional skills.
(2) The competent authority for the implementation and/or coordination of other services involved within the meaning of this Law, in relation to the implementation of this article is the Social Welfare Services.

(3) The Social Welfare Services shall establish and operate shelters for the victim's stay, the operation of which and the entry procedures of the victims to which, are determined by Regulations:

It is understood that the shelters shall operate in such a manner and on the basis of such procedures so that the victims are in a position to enjoy the rights and the protection provided to them under this Law.

(4) The Social Welfare Services may delegate their powers under subsection (3) of this section to a non-governmental organisation or to the Local Administration Authorities on the basis of the protocol of cooperation or a special agreement between them.

It should be highlighted that the above sections again reflect articles 10-13 of the THB Convention.

§45. GRETA stresses that the definition of "victim of THB" in Law 87 is not in conformity with the Convention, as the latter requires neither damage nor even actual exploitation. It is sufficient for a person to have been subject to the actions and means specified in the Convention, with the purpose of exploitation, to be considered a victim of THB.

According to Article 2 of the Law 87(I)/2007:

"victim" means the natural person who has sustained damage, including physical and mental injury or financial loss, which is directly caused by the commission of the offences established in this Law". This definition fully reflects the definition provided in the THB Convention.

§100 of the Explanatory Report of the THB Convention:

"the Convention defines "victim" as "any natural person who is subjected to trafficking in human beings as defined in this Article. As explained above, a victim is anyone subjected to a combination of elements (action – means – purpose) specified in Article 4(a) of the Convention. Under Article 4(c), however, when that person is a child, he or she is to be regarded as a victim even if none of the means specified in Article 4(a) has been used.".

With all due respect, GRETAs statement it's misleading and inaccurate since it implies that a person can be considered a victim even when he or she was not subjected to the combination of the abovementioned elements.

§56 An amendment of the Law 87(I)/2007 is pending in order to increase the number of NGOs that participate in the multidisciplinary group from two to four.

§156. GRETA s comment is:

"Further, Article 23 of Law 87 provides that victims of THB have a right to State compensation, in accordance with the provisions and conditions of the Council of Europe Convention on the Compensation of Victims of Violent Crimes (which is restricted to victims who are Cyprus

nationals or nationals of Council of Europe member States who are permanent residents in Cyprus). Further, the Council Framework Decision 2001/220/JHA of 15 March 2001 on the standing of victims in criminal proceedings provides victims of crimes with minimum rights to be exercised in relation to criminal proceedings, including compensation from the offender. Directive 2004/80/EC of 29 April 2004 relating to the compensation to crime victims allows victims of violent intentional crimes who are EU nationals to receive State compensation irrespective of their country of residence or the EU Member State in which the crime was committed. These rules on access to compensation in cross-border situations operate on the basis of EU Member States' national schemes on compensation to victims of violent crimes committed in their territory. In this sense, victims of THB who are not EU nationals cannot benefit from those provisions."

We are really astonished with this statement! As we have already mentioned the definition of the victim is:

"Victim" means the **natural person** who has sustained damage, including physical and mental injury or financial loss, which is directly caused by the commission of the offences established in this Law".

Thus, any human being immaterial of his origin may be considered as a victim. The law in every single article refers to this "victim" and does not in any way, distinguish the EU citizens form the third country nationals. In addition, the sections applicable to victims from third countries are those that are relevant to their repatriation process and not their status as victims.

§164. GRETAs comment that:

"According to the Cypriot authorities, there are already procedures for repatriation included in the Aliens and Immigration Act and the Asylum Act. However, it is planned to clarify the issue of repatriation of victims of THB through a future amendment to Law 87.".

We believe that this comment it's beyond GRETA's scope of action. Our legal system promotes the simple regulation of situations and we try to avoid over regulation or moreover double regulation. Also, in any given time the law applicable is the most specific and relevant one.

Finally, Law 87(I)/2007 is applied in conjunction with Criminal Procedure Act , Civil Procedure Act, Penal code, Aliens and Immigration Act and the Asylum Act etc. It will be impossible every time to have amendment of the Law 87(I)/2007 in order to accommodate all the relevant sections to THB contained in the aforementioned acts to the actual Law (I)/2007.

D. CLOSING REMARKS

D.1 Combating trafficking in human beings remains one of our priorities and we are of the strong opinion that although there is still much to be done, significant steps have been made at least over the past few years. We have adopted the new National Action Plan 2010-2012 the implementation of which not only has commenced, but a number of actions have already been concluded, whereas others are on-going.

D.2 The respect of human rights and human dignity of all persons residing in our country remains at the core of our policies. Therefore, we will continue with all our efforts to combat the heinous crime of trafficking in human beings. We remain available for cooperation in this field.

D.3 Finally, we wish to express, once more, our ongoing commitment to fight trafficking in human beings, on both national and international level, especially within the framework of the Council of Europe and the EU. We remain at GRETA's disposal for any further clarifications and updating on THB issues in Cyprus.