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against Trafficking in Human Beings

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

First evaluation round

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Preamble

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

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

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

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

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

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

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

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

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

GRETA is composed of 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 Croatian authorities have taken commendable measures to prevent and combat trafficking in human beings. Multiannual national action plans on combating trafficking in human beings have been adopted and implemented. The implementation of national actions is co-ordinated by the National Committee for Combating Trafficking in Human Beings, which brings together all relevant actors, including non-governmental organisations. A National Co-ordinator for Combating Trafficking in Human Beings has been appointed to ensure the day-to-day co-ordination of anti-trafficking activities of relevant public bodies. Further, the Operative Team of the National Committee has been established with the task of co-ordinating the provision of assistance and protection to victims of trafficking. Legislative provisions concerning trafficking in human beings have been introduced in the Criminal Code, the Criminal Procedure Code, the Aliens Act and a number of secondary legislation acts concerning identification, assistance and protection of victims of trafficking as well as voluntary return.

That said, GRETA considers that the Croatian authorities should improve the practical application of the existing anti-trafficking framework. In particular, better use should be made of this framework to ensure that no trafficked persons remain unidentified. The public bodies responsible for the detection and identification of victims should take a proactive approach and NGOs working in the area of action against trafficking in human beings should be encouraged to participate more actively in the activities of the mobile teams, including the identification of victims.

GRETA stresses the need for more robust and systematic preventive measures, reflecting a gender-sensitive approach, with a view to increasing public awareness and developing a better understanding of trafficking in human beings and the situation of its victims. Research should be carried out as regards the trends of trafficking, including national trafficking (i.e. within Croatia) and trafficking for the purpose of labour exploitation. Practical measures should be taken to ensure that male victims of trafficking are effectively identified and provided with the necessary assistance and protection. Further, legislative and practical measures should be adopted to facilitate and guarantee access to compensation for all victims of trafficking, irrespective of their nationality and residence status.

As regards substantive criminal law, GRETA notes that the offence of trafficking in human beings, as defined by the Convention, has been integrated into Croatian legislation. However, the conducts relating to travel or identity documents such as their retaining, removing, concealing, damaging or destroying for the purpose of enabling trafficking are yet to be criminalised.

In order to achieve better protection of victims of trafficking during legal proceedings and secure convictions of traffickers, GRETA considers that the training provided to judges, prosecutors and other relevant professionals should be improved. GRETA also encourages the Croatian authorities to make full use of the protection measures envisaged in law in respect of witnesses who are victims of trafficking and their families.

Finally, the implementation of anti-trafficking measures should be the subject of a periodic independent evaluation. Regular monitoring of the efficiency and effectiveness of anti-trafficking programmes would greatly facilitate identification of possible problems and finding solutions to them.

I. Introduction

1. Croatia deposited the instrument of ratification of the Council of Europe Convention on Action against Trafficking in Human Beings ("the Convention") on 5 September 2007. The Convention as such entered into force on 1 February 2008, following its 10th ratification.

2. As established in Article 36(1) of the Convention, the Group of Experts on Action against Trafficking in Human Beings ("GRETA") monitors the implementation of the Convention by the Parties. GRETA does so in conformity with the procedure laid down in Article 38 of the Convention and the Rules on the evaluation procedure of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the parties. For the first evaluation round, GRETA drew up a monitoring timetable according to which the Parties to the Convention were divided into groups, Croatia being in the first group of 10 Parties to be evaluated in 2010-2011.

3. In accordance with Article 38 of the Convention, GRETA proceeded with the examination of the measures taken by Croatia to implement the provisions set out in the Convention. The "Questionnaire for the evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the parties - first evaluation round" was sent to the Croatian authorities on 11 February 2010. The deadline for submitting the reply to the questionnaire was 1 September 2010. The Croatian authorities submitted their reply on 31 August 2010.

4. In preparation of the present report, GRETA used the reply to the questionnaire by Croatia, other information collected by GRETA and information received from civil society. A country visit to Croatia took place from 15 to 18 February 2011. It was carried out by a delegation composed of:

- Ms Nell Rasmussen, member of GRETA
- Ms Josie Christodoulou, member of GRETA
- Mr David Dolidze, administrator at the Secretariat of the Council of Europe Convention on Action against Trafficking in Human Beings.

5. During the country visit, the GRETA delegation held meetings with representatives of relevant ministries and other public bodies (see Appendix II). These meetings took place in a spirit of close co-operation.

6. The GRETA delegation also held separate meetings with representatives of non-governmental organisations (NGOs) and civil society active in the field of action against trafficking in human beings (THB). Furthermore, the delegation visited a shelter for victims of trafficking in human beings in Rijeka.

7. GRETA wishes to place on record the excellent assistance provided to its delegation by the contact person appointed by the Croatian authorities, Mr Luka Madjeric, Croatian National Co-ordinator on Combating Human Trafficking, Head of the Office for Human Rights of the Government of Croatia, Ms Maja Bukša, Head of Department for Suppression of Trafficking in Human Beings and international co-operation, and Ms Lana Velimirović Vukalović, Advisor in the Office for Human Rights.

8. The draft version of the present report was adopted by GRETA at its 10th meeting (21-24 June 2011) and was submitted to the Croatian authorities on 8 July 2011 for comments. The authorities' comments were received on 29 July 2011 and were taken into account by GRETA when drawing up its final evaluation report, which was adopted at GRETA's 11th meeting (20-23 September 2011).

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

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

9. The Croatian authorities have indicated that, due to its geographical situation, Croatia is affected by trafficking in human beings mostly as a country of transit and destination, and to a lesser extent as a country of origin. According to statistical information provided by the authorities, seven victims of THB were identified in 2008 (of whom four were Croatian nationals), eight in 2009 (including four Croatian nationals) and seven in 2010 (of whom four were Croatian nationals). The majority of these victims (five in 2008, five in 2009 and five in 2010) were subject to transnational THB. Most of the adult victims identified were women (four in 2008, five in 2009 and four in 2010). The number of identified child victims of THB has been very low (none in 2008, one in 2009 and two in 2010). As for foreign victims identified in 2008-2010, they were all nationals of neighbouring countries in the Balkan region (four from Bosnia and Herzegovina, five from Serbia, and one from Romania). Although the main purpose of trafficking was sexual exploitation, there have also been cases of persons trafficked for the purpose of labour exploitation (four in 2008, three in 2009), exploitation of begging (one in 2010) and being forced to commit minor criminal offences (one in 2010). Regardless of the official statistics, it is commonly acknowledged by representatives of public bodies and NGOs that the actual extent of THB in Croatia could be considerably higher. There are indications that Croatia is increasingly becoming a country of origin for victims of trafficking, with national THB (i.e. within Croatia) and trafficking for the purpose of labour exploitation being on the rise.

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

a. National legislation

10. There is no single law in Croatia dealing specifically with trafficking in human beings. The criminal law provision on THB is contained in Article 175 of the Criminal Code (CC) entitled "trafficking in human beings and slavery". Further, Articles 43 to 47 of the new Criminal Procedure Act (CPA), in force since 1 September 2011, define the rights of victims of criminal offences[1].

11. Several normative acts adopted by the Croatian Government deal specifically with the provision of assistance to victims of trafficking:

- the Protocol for the Identification, Assistance and Protection of Victims of Human Trafficking[2];
- the Protocol on Proceeding during the Voluntary Return of Human Trafficking Victims[3];
- the Directive of the Minister of the Interior on the Regulation of Stay of Victims of Human Trafficking;
- the Protocol on Integration/Reintegration of Victims of Trafficking in Human Beings[4], which will enter into force on 1 January 2012.

12. In addition, certain provisions relevant to combating THB and protecting its victims are contained in the Witness Protection Act (concerning protection of victims of THB who are witnesses), the Aliens Act, the Asylum Act (both concerning the temporary stay of foreign victims of THB), and the Social Welfare Act (concerning material and other assistance to identified victims of THB).

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1 The CPA entered into force on 1 January 2009 in relation to organised crime and corruption offences, while the remaining part of it entered into force on 1 September 2011.

2 Adopted by the Conclusion of the Government on 14 November 2009.

3 Adopted by the Conclusion of the Government on 23 December 2009.

4 Adopted by the Conclusion of the Government on 5 May 2011.

b. International agreements

13. Along with the Council of Europe Anti-Trafficking Convention, Croatia is Party to the United Nations Convention against Transnational Organised Crime and its Protocols, as well as to most of the Council of Europe Conventions concerning co-operation in criminal matters[5].

14. Further, Croatia has concluded bilateral agreements with neighbouring countries which are relevant to combating THB, such as the Agreement on Co-operation and Surveillance of the State Border between Croatia and Bosnia and Herzegovina, and the Agreement on Police Co-operation between Croatia and Serbia.

c. National Plan for Combating Trafficking in Human Beings

15. The anti-trafficking policy in Croatia is set out in the National Plan for Combating Trafficking in Human Beings for the period of 2009-2011, which was approved by the Croatian Government on 25 March 2009. The National Plan is implemented through annual Operational Plans containing specific objectives, activities and performance indicators. The current National Plan is the third policy document of this type adopted by the Croatian Government since 2002.

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

a. National Committee for Combating Trafficking in Human Beings

16. The National Committee for Combating Trafficking in Human Beings ("the National Committee"), established in 2002, is an umbrella body which determines the national policy in the area of preventing and combating THB. Its main task is to adopt guidelines and strategies for combating THB, in particular the National Plans. It meets once or twice a year, depending on the need to adopt a policy decision or initiate a counter-THB action of the Government. The National Committee has an obligation to report to the Government at least twice a year.

17. The National Committee by the Deputy Prime Minister of Croatia in charge of social affairs and is composed of representatives of:

- the Ministry of the Interior
- the Office of the Prosecutor General
- the Ministry of Foreign Affairs and European Integration
- the Ministry of Justice
- the Ministry of Health and Social Welfare
- the Ministry of Family, War Veterans and Intergenerational Solidarity
- the Ministry of Finance
- the Ministry of Science, Education and Sports
- NGOs (two representatives)
- the media (one representative).

18. The current composition of the National Committee has been approved by a Decree of the Government of Croatia of 22 September 2009. The National Committee may also invite experts to participate in its meetings.

[5] European Convention on Mutual Assistance in Criminal Matters and its Additional Protocols; Convention on Cybercrime; European Convention on the Compensation of Victims of Violent Crimes; Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime; Criminal Law Convention on Corruption and Additional Protocol to the Criminal Law Convention on Corruption.

b. Operative Team of the National Committee for Combating Trafficking in Human Beings

19. The Operative Team of the National Committee has been established with the task of co-ordinating the provision of assistance and protection to victims of THB. It meets at least once a month and more frequently, if necessary. The members of the Operative Team are representatives of the agencies referred to in paragraph 17. In addition, representatives of the Croatian Red Cross, other specialised NGOs and the International Organisation for Migration (IOM) in Croatia are also members of the Operative Team. Further, the International Centre for Migration Policy Development (ICMPD) is invited to attend meetings of the Operative Team as an observer.

20. In addition to co-ordinating day-to-day anti-trafficking activities, the Operative Team is responsible for supervising the mobile teams (see paragraph 21), granting the status of a victim of THB, and monitoring a national SOS telephone helpline which operates on a 24-hour basis and enables trafficked persons to ask for assistance and other persons to report possible cases of THB.

c. Mobile teams

21. At the local level, victims of THB are assisted by mobile teams composed of specially trained representatives of the social services, the Croatian Red Cross and NGOs active in the area of combating THB. The latter have received an authorisation from the Office for Human Rights, the Ministry of Health and Social Welfare, and the Ministry of the Interior to work with victims of THB.

22. Each mobile team consists of four persons: a representative of the local social welfare centre, a representative of the Croatian Red Cross, and two representatives of NGOs. There are four mobile teams based in Zagreb, Rijeka, Split and Osijek, which cover the entire territory of Croatia.

d. National Co-ordinator for Combating Trafficking in Human Beings and Government Office for Human Rights

23. The National Co-ordinator for Combating THB is the Head of the Government Office for Human Rights, which is responsible for co-ordinating the activities of state institutions relevant to the protection of human rights. As THB is considered a human rights violation, the competences of the Government Office for Human Rights cover activities in the field of combating THB. The National Co-ordinator chairs the meetings of the Operative Team.

24. The Department for Combating Trafficking in Human Beings and International Co-operation of the Government Office for Human Rights provides the Secretariat of the National Committee and the Operative Team. The Department employs five staff members in charge of preparing documents in the field of combating THB and co-ordinating the work of public administration bodies and NGOs.

e. NGOs

25. NGOs active in the field of combating THB in Croatia have established the PETRA network, which is composed of the following 10 organisations:

- Autonomous Women's House, Zagreb
- Centre for Civil Initiatives, Poreč
- Centre for Women victims of war "Rosa", Zagreb
- Dolphin, Pakrac
- Organisation for the Integrity and Prosperity (OIP), Split
- SOS hotline, Virovitica
- Women's Association, Vukovar
- Women's Group, Split
- Women's Association Brod, Slavonski Brod
- Women's Room, Zagreb.

26. These NGOs work predominantly on providing assistance to women victims of domestic violence and protecting women's rights and gender equality, but they also implement activities related to the prevention of THB and assisting victims of trafficking. Representatives of the PETRA network are members of the above-mentioned National Committee, the Operative Team and the mobile teams. They are consulted during the preparation of all national documents in the field of combating THB.

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

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

27. Article 1(1)(b) of the Convention establishes as one of its purposes the protection of the human rights of the victims of trafficking. Further, Article 5(3) includes the obligation for Parties to promote a human rights-based approach in the development, implementation and assessment of the policies and programmes to prevent THB. The Explanatory Report on the Convention states that the main added value of the Convention is its human rights perspective and its focus on victim protection. In the same vein, the United Nations Recommended Principles and Guidelines on Human Rights and Human Trafficking emphasise that "the human rights of trafficked persons shall be at the centre of all efforts to prevent and combat trafficking and to protect, assist and provide redress to victims"[6].

28. THB constitutes an offence to the dignity and fundamental freedoms of the human being and thus a grave violation of human rights. GRETA emphasises the obligations of States to respect, fulfil and protect human rights, including by ensuring compliance by non-State actors, in accordance with the duty of due diligence. The human rights-based approach entails that a State that fails to fulfil these obligations may, for instance, be held accountable for violations of the European Convention on Human Rights (in case the State concerned is a Party to it). This has been confirmed by the European Court of Human Rights in its judgment in the case of *Rantsev v. Cyprus and Russia*, where the Court concluded that THB within the meaning of Article 3(a) of the Palermo Protocol and Article 4(a) of the Anti-Trafficking Convention, falls within the scope of Article 4 of the European Convention on Human Rights (which prohibits slavery, servitude and forced or compulsory labour)[7]. 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.

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

30. GRETA wishes to stress the need for States to also address THB as a form of violence against women and to take account of gender-specific types of exploitation, as well as the particular situation of child victims of THB, in line with the relevant international legal instruments[8].

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[6] 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

[7] Rantsev v. Cyprus and Russia, no. 25965/04, paragraph 282, ECHR 2010.

[8] 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.

31. To illustrate the human rights-based approach to action against THB, the Croatian authorities have referred to Article 22 of the Constitution which safeguards personal freedom and Article 23 of the Constitution prohibiting *inter alia* forced or compulsory labour. The National Plan for 2009-2011 affirms that "trafficking in human beings is one of the most unscrupulous examples of human rights violations aimed at reaping an illegal profit."

32. Further, the National Programme for the Protection and Promotion of Human Rights for the period of 2008-2011 emphasises that "trafficking in persons constitutes the most blatant violation of the fundamental human right to liberty, which is precisely why combating human trafficking requires a special approach" and includes trafficking in persons as one of the priority areas.

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

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

i. Definition of "trafficking in human beings"

34. 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 case of children, pursuant to Article 4(c) of the Convention, it is immaterial whether the means referred to above have been used.

35. Under Croatian law, THB is established as a criminal offence by Article 175 of the CC which reads[9]:

> "(1) Whoever, in violation of the rules of international law, by the use of force or threat to use force or by fraud, kidnapping, abuse of position of defencelessness or authority or in any other way solicits,[10] purchases, sells, hands over, transports, transfers, encourages or mediates in the buying, selling or handing over, conceals or receives a person in order to establish slavery or a similar relationship, forced labour or servitude, unlawful adoption of a child, sexual exploitation, prostitution or illegal transplantation of parts of a human body, or who keeps a person in slavery or in a similar relationship, shall be punished by imprisonment for one to ten years.
>
> (2) Whoever in violation of the rules of international law solicits, purchases, sells, hands over, transports, transfers, encourages or mediates in the buying, selling or handing over, conceals or receives a child or a juvenile in order to establish slavery or a similar relationship, forced labour or servitude, sexual exploitation, prostitution or illegal transplantation of parts of a human body, or whoever keeps a child or a juvenile in slavery or in a similar relationship, shall be punished by imprisonment not less than five years.

[9] Translation provided by the Croatian authorities.

[10] The translation of Article 175 of the CC, contained in the Handbook for Diplomatic and Consular Officials, reads "recruits" instead of "solicits".

(3) If the criminal offence referred to in paragraphs 1 or 2 of this Article was committed in a group or criminal organisation or the offender is an official person, if it was committed in regards to a greater number of persons or a death of one or more persons was caused, the offender shall be punished by imprisonment of no less than five years or long-term imprisonment.

(4) Whoever takes advantage of or enables another person to take advantage of position of a person that he knows to be a victim of trafficking in human beings for forced labour or servitude, sexual exploitation, slavery or a similar relationship, prostitution or illegal transplantation of parts of a human body, shall be punished by imprisonment for three months to three years.

(5) Whether or not a person has acceded (consented) to forced labour or servitude, sexual exploitation, slavery or to a relationship similar to slavery or to illegal transplantation of parts of a human body is of no relevance for the existence of the criminal offence referred to in paragraphs 1 and 2 of this Article."

36. The above definition reflects all three constituent elements of THB as defined by the Convention. Further, GRETA notes that Article 175(2) of the CC does not refer to any means when it comes to trafficking in children (i.e. persons under 18 years old), which is in compliance with the Convention.

37. Pursuant to Article 4(b) of the Convention, the consent of a victim of THB is irrelevant where any of the means set forth in the definition of THB have been used. GRETA notes that this provision is reflected in Article 175 of the CC, according to which a person's consent to actual exploitation is not relevant to his/her recognition as victim of THB.

38. For further analysis of the definition of the offence of THB from a substantive criminal law perspective, see paragraphs 118-124.

ii. Definition of "victim of THB"

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

40. Croatian legislation contains several provisions concerning victims of THB. From a criminal law perspective, Article 202 of the new CPA stipulates that "a victim of a criminal offence is a person who as a result of the perpetration of a criminal offence suffers physical and mental consequences, pecuniary damage or a significant infringement of fundamental rights and freedoms." This definition is generically applied to victims of any offence prescribed in the CC, including THB.

41. From the perspective of providing protection and assistance to victims of trafficking, Article 14 of the Protocol on Identification, Assistance and Protection of Victims of Human Trafficking states: "In case a victim accepts in writing the offered aid and protection programme, he/she is entitled to all rights and obligations arising from the programme."[11] In addition, Article 70 of the Aliens Act stipulates that "the status of a victim [of THB] shall be acquired by accepting to participate in an assistance and protection programme, of which the Operative Team of the National Committee for Combating Trafficking in Human Beings shall notify the Ministry [of the Interior]." The status and rights of victims of THB are further discussed in paragraphs 82-92.

11 Translation provided by Croatian authorities.

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

i. Comprehensive approach and co-ordination

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

43. The Croatian authorities have taken steps to develop a comprehensive legal and institutional framework for action against THB. The legislation has been amended and new legislation adopted in order to meet Croatia's obligations arising from various international legal instruments. Along with the National Plans on Combating THB, since 2005 the Government has adopted annual Operational Plans for Combating Trafficking in Human Beings. In the period 2005-2007, Croatia had a specific National Action Plan for Combating Trafficking in Children. The current National Plan for Combating THB (2009-2011) covers the following areas: normative framework; identifying victims of THB; discovering and punishing the perpetrators of THB; assisting and protecting victims; prevention; educational measures; international cooperation; and activity co-ordination.

44. Special bodies have been put in place at three levels to effectively implement and supervise the implementation of anti-THB measures: at the general policy level (the National Committee), central level (Operative Team) and local level (mobile teams). These bodies are composed of representatives of relevant ministries and agencies responsible for areas relevant to combating THB. They also include representatives of NGOs active in preventing THB and assisting its victims. All interlocutors, including NGOs, confirm that the fight against THB is subject to great political attention in Croatia. The implementation of national actions and measures to combat THB is co-ordinated by the Head of the Government Office for Human Rights, which is indicative of the fact that this phenomenon is considered to raise first of all human rights concerns. All actors responsible for the implementation of measures included in the National Plan are obliged to send annual statements to the Government Office for Human Rights, on the basis of which a report on the implementation of the National Plan is drawn up and adopted by the Croatian Government.

45. GRETA notes that most of the anti-THB activities, including those implemented by NGOs, are financed from the state budget. This includes preventive measures, victim identification, assistance and protection measures, and training (see paragraphs 50-54).

46. GRETA welcomes the above-mentioned steps taken by the Croatian authorities, which constitute a solid basis for preventing and combating THB. However, the low number of identified victims suggests that the actual functioning of the anti-trafficking framework is not fully satisfactory and greater co-ordination should be achieved between different actors responsible for anti-trafficking activities in order to fully comply with the requirements of the Convention concerning a comprehensive approach to preventing and combating THB.

47. GRETA was informed that not all representatives of relevant public bodies are actively involved in the activities of the Operative Team, which could be due to insufficient understanding of their respective roles. Further, even though the PETRA network participates in the work of the National Committee and the Operative Team, there are no clear selection criteria for membership of NGOs in these bodies. Moreover, the participation of NGOs in the meetings of the Operative Team and the activities of the mobile teams is not systematic, which diminishes the efficiency of the exchange of information between public bodies and NGOs. In this context, GRETA was also informed by NGOs that co-operation and communication with the police at local level is insufficient: for instance, NGOs are often not informed about the outcome of the identification of presumed victims of THB whom they refer to the police.

48. **In the light of the above, GRETA invites the Croatian authorities to:**

- **ensure that the representatives of all public bodies included in the Operative Team actively participate in its work;**

- **draw up clear selection criteria for membership of NGOs in the anti-THB bodies and make these criteria available to all interested NGOs;**

- **encourage the participation of NGOs in the activities of the mobile teams by keeping them informed of the anti-THB activities and their results;**

- **take practical measures to improve co-operation and communication between the police at local level and NGOs, especially as regards the identification of victims of THB.**

49. **Further, in addition to the internal reports on the implementation of the National Plan, GRETA invites the Croatian authorities to introduce a periodic independent evaluation of the National Plan as a tool for assessing the impact of the activities and for planning future policies and measures to combat THB.**

ii. Training of relevant professionals

50. To combat THB effectively and protect its victims it is essential that the public authorities, which may have contact with victims of trafficking, have proper training. According to the Croatian authorities, two training projects on combating THB were implemented in co-operation with the IOM in 2006-2007. These projects were intended for staff of the Criminal Police and the Border Police of the Ministry of the Interior; 26 police officers and 27 border police officers specialised in the identification of THB victims, as well as 10 public prosecutors received training. Meetings of the police and border police officers designated to monitor issues related to THB are held annually in order to acquaint them with legal changes and new trends.

51. Further, in 2010, the Police Academy organised six training sessions on suppression of THB for a total of 939 border police and 55 traffic police officers. Training was also provided to 23 border police officers and 8 staff members of the Illegal Migration Department under the ICMPD Project "Targeting niches in the anti-trafficking efforts: customised support for Croatia". Under this project, six joint trainings were organised for police officers, prosecutors and other relevant professionals.

52. GRETA was informed that the Government Office for Human Rights organises periodic training for professionals with responsibilities in action against THB, including members of mobile teams, staff of social welfare centres, representatives of the judiciary and law enforcement agencies, personnel of armed forces participating in peace-keeping missions, persons employed in the tourist industry, pupils and students. Since 2009, such training has focussed on the implementation of the Protocol on Identification, Assistance and Protection of Victims of Human Trafficking. The Government Office for Human Rights reportedly spent 20 000 HRK (approximately 2700 euro) on training in 2009. In 2011, the Government Office for Human Rights, in co-operation with the Judicial Academy, provided training on THB to some 20 judges and prosecutors.

53. Some representatives of public bodies and NGOs drew GRETA's attention to the frequent renewal of staff of the police and prosecution services, which creates the need to provide new staff with training on combating THB. According to information provided by the Croatian authorities, in 2010, 26 police trainers provided education courses to 800 new police officers.

54. Special training on preventing THB and identifying victims is provided by the Diplomatic Academy and the Consular Division of the Ministry of Foreign Affairs and European Integration to diplomatic and consular staff deployed in missions abroad. All Croatian consular officials have reportedly received such training. In the course of the academic year 2010-2011, 42 participants of the Diplomatic Academy were educated on THB-related subjects. The National Plan for 2009-2011 envisages the provision of continuous training to relevant professionals (see paragraphs 133 and 137).

iii. Data collection and research

55. The Government Office for Human Rights is responsible for keeping a database of identified victims of THB in co-operation with the Ministry of the Interior. This database contains all the necessary information on identified victims including personal information (code name for the victim; age; gender; nationality; education), family information (marital status; children; employment; etc.), trafficking experience (trafficker, if known; means of recruitment; type of exploitation; etc.), help and assistance (how the victim was identified; placement in a shelter; medical help; psychological assistance; legal aid; etc.). The data is stored on a computer which is not connected to the internet and is password-protected. Only the person responsible for the database and his/her substitute, both of whom are appointed by the National Co-ordinator for Combating THB, have access to this database. The information is exchanged with relevant agencies (Ministry of the Interior, Ministry of Health and Social Welfare, Prosecutor's Office, etc.) upon the submission of a formal inquiry to the Office for Human Rights. Further, the Ministry of the Interior operates its own database concerning identified victims of trafficking and perpetrators.

56. GRETA notes that the database contains information only on formally identified victims of THB within the meaning of the Protocol on Identification, Assistance and Protection of Victims of Human Trafficking. GRETA considers that in order to follow changing trends in the area of THB, the National Co-ordinator should also regularly examine statistical information in other areas relevant to THB, such as asylum seekers, irregular migrants and foreign employees.

57. GRETA notes that one of the activities included in the National Plan for 2009-2011 is to carry out research on trends in the area of THB. A research on the current trends in THB in Croatia, with a special focus on labour exploitation, has already been conducted under the ICMPD project "Targeting niches in the anti-trafficking efforts: customised support for Croatia". As part of this project, a list of indicators for detecting cases of THB was developed and distributed to all relevant institutions. Government officials and representatives of NGOs confirmed that the ICMPD project revealed important gaps to be addressed. Other than this project, the GRETA delegation was informed during the country visit to Croatia that no research on THB has been carried out since 2007. GRETA understands that a research project entitled "Enhancing identification of victims of trafficking in human beings" has recently been approved by the European Commission. The project will research new trends of THB and its results are intended to be used for specialised training of police officers, prosecutors, judges and other relevant professionals. In this context, GRETA would like to stress that the extent of national trafficking (i.e. within Croatia) remains unexamined and merits to be one of the areas on which future research could focus.

58. **GRETA welcomes the setting up of a data collection mechanism on THB by the Croatian authorities, which enables the compiling of statistical information and allows its disaggregation (concerning gender, age, type of exploitation, country of origin and/or destination, etc.). GRETA considers that the Croatian authorities should enhance exchanges of statistical information among the agencies responsible for the supervision of migration, employment and combating THB. This should be accompanied by all the necessary measures to respect the right of data subjects to personal data protection. In addition, the Croatian authorities should also collect statistical information as regards arrests, prosecutions and convictions for the offence of THB.**

59. **Further, GRETA considers that the Croatian authorities should conduct and support research on THB-related issues, with particular emphasis on the gender dimension and trafficking in children, as an important source of information for future policy measures in the field of action against THB.**

iv. International co-operation

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

61. As regards co-operation in criminal matters, Croatia is party to numerous multilateral agreements on mutual legal assistance applicable to THB related offences. Croatia co-operates with other states on the basis of its obligations arising from membership in INTERPOL, EUROPOL and the Southeast European Cooperative Initiative (SECI Centre). Issues concerning international co-operation in the criminal field are also regulated by a number of domestic legal acts[12].

62. Croatian law enforcement authorities transmit information to the competent bodies of other states through the communication channels of INTERPOL, the SECI Centre, police liaison officers or direct contacts. The Ministry of the Interior conducts joint activities, such as parallel investigations with the aim of identifying and safely returning victims of THB, and detaining and prosecuting traffickers. By way of example, the Croatian authorities have referred to a joint operation of the Croatian and Swiss police in 2007 (operation BLOND) which established that five Croatian nationals had committed offences of THB involving a number of Croatian and Serbian victims in Switzerland, and a joint operation of the Croatian and Serbian police in 2009 which led to the identification of two Serbian women victims of trafficking.

63. GRETA also notes that the chapter entitled "International Co-operation" of the National Plan for Combating Trafficking in Human Beings (2009-2011) envisages participation of representatives of the State Administration in regional and international projects and initiatives for combating THB. In the course of 2010 and 2011, representatives of the Croatian authorities responsible for preventing and combating THB participated in a number of international projects, such as the ICMPD project entitled "Data collection and information management", the 17th Regional Working Meeting of police officers of the member countries of the SECI Centre, the Conference on cross-border co-operation for improving the procedures for the return and reintegration of victims of THB between Bosnia and Herzegovina, Croatia and Serbia, and the 8th Ministerial Conference on Co-operation in the field of border security in South-Eastern Europe. At the latter meeting, the participants signed a Memorandum of Understanding concerning the support of the project "Creating prerequisites for the establishment of Joint Investigative Teams for the fight against THB in South-Eastern Europe" with the participation of Albania, Bosnia and Herzegovina, Bulgaria, Croatia, the "former Yugoslav Republic of Macedonia", Montenegro, Romania, Serbia and Slovenia. This project is supported by the EUROPOL and Eurojust.

[12] Criminal Procedure Act, which regulates issues of international co-operation and the manner of conducting joint investigations; Act on International Legal Assistance in Criminal Matters, which regulates the procedure of international legal assistance; Act on Police Affairs and Authorities, which regulates issues pertaining to police cooperation; Witness Protection Act, which sets out the norms concerning provision of assistance to Croatian witness/victim abroad or to a witness/victim who is a foreign national on the territory of Croatia.

64. Croatia has also concluded bilateral agreements in the social security area with 18 European countries. According to the Croatian authorities, these agreements refer to the health care rights of foreign nationals, including eventual victims of THB.

65. **GRETA encourages the Croatian authorities to continue international co-operation in the criminal field with a view to combating THB and to enhance international co-operation in the non-criminal field with all relevant countries.**

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

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

a. Awareness raising

67. In the course of 2008, the Government Office for Human Rights, in co-operation with the Ludwig Boltzmann Institute from Austria, carried out an awareness-raising campaign "Stop trafficking in human beings". This campaign was aimed at the general public, both potential users of services of victims of THB and potential victims of THB, with a special focus on preventing THB for sexual exploitation. A renowned Croatian football player was the spokesperson of this campaign. According to the Croatian authorities, during the campaign the number of calls with requests for more information on THB received on the SOS hotline which was advertised by the campaign reportedly increased. Further, TV spots aired on the national television during the campaign led to an increased interest on the part of journalists.

68. Also in 2008, the campaign "Stop trafficking in children" was carried out by means of broadcasting television spots and displaying billboards to maximise public outreach. A famous Croatian actress was the spokesperson for this campaign.

69. In the same year, the campaign "Play fair – do not buy sex" was implemented by the PETRA network in relation to the European football championship EURO 2008. This campaign aimed at discouraging football fans from using sex services of women who may have been trafficked for sexual exploitation during the championship.

70. GRETA notes that the National Plan for 2009-2011 envisages organising public awareness campaigns with special emphasis on trafficking for the purpose of labour exploitation, an area which has so far been neglected. Further, GRETA notes that the Government Office for Human Rights is planning to carry out a public campaign with emphasis on trafficking for the purpose of labour and sexual exploitation within the framework of the above-mentioned project "Enhancing identification of victims of trafficking in human beings" which has been approved by the European Union. GRETA welcomes these plans and trusts that the Croatian authorities will proceed expeditiously with their implementation.

71. According to public officials and NGOs met during GRETA's country visit to Croatia, unfavourable views in respect of victims of THB exist among certain professionals who come in contact with victims, such as medical doctors, law enforcement officials, prosecutors and judges. This can be attributed to a lack of a gender-sensitive approach and insufficient gender mainstreaming in the anti-THB policies.

72. **GRETA considers that the Croatian authorities should continue to raise public awareness with a view to achieving a better understanding of THB and the situation of victims of trafficking. Awareness-raising campaigns, education in schools and specialised training of relevant professionals should aim at overcoming the existing prejudice against victims of THB and increasing public awareness about the importance of reporting suspected THB cases. The prevention efforts should be based on research and evaluation of the impact of campaigns and education measures taken in the past.**

73. **GRETA invites the Croatian authorities to continue raising awareness on trafficking for the purpose of labour exploitation, including among labour inspectorates, trade unions, social workers and recruitment agencies. The list of indicators drawn up by the ICMPD to detect cases of THB for the purpose of labour exploitation should be used by relevant officials.**

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

74. Economic empowerment measures for victims of THB are envisaged under the National Plan for Stimulation of Employment for 2009-2010, which mentions victims of trafficking as a particularly vulnerable group. Economic incentive measures are also taken in the framework of the individualised assistance programme provided to victims pursuant to the Protocol on Identification and Assistance. Further, on 5 May 2011, the Croatian Government adopted a Protocol on integration/reintegration of victims of trafficking in human beings, which will enter into force on 1 January 2012. The measures included in the Protocol cover health and social protection, health insurance, education, vocational training and access to the labour market. The Protocol defines the roles and duties of the institutions responsible for providing the above-mentioned assistance measures to victims of THB (the Ministry of Health and Social Welfare, the Ministry of Science, Education and Sports, the Croatian Employment Service, NGOs). GRETA welcomes the adoption of this Protocol and considers that its application should facilitate the integration of victims of THB and limit the risk of re-trafficking. **GRETA urges the Croatian authorities to enable the application of this Protocol to all victims of THB, regardless their nationality and residence status.**

75. That said, GRETA notes that the above measures apply to persons who have already been trafficked, rather than to persons who are at risk of being trafficked due to their precarious economic situation. GRETA would like to stress the importance of prevention of THB through social and economic initiatives which tackle the underlying structural causes of THB. In this context, the Croatian authorities have referred to the Joint Memorandum on Social Inclusion, which identifies the main challenges and priorities in the fight against poverty and social exclusion and includes measures to increase the employability of groups most affected by long-term unemployment and to expand the network of social services for children.

76. **GRETA considers that specific economic and social measures should be taken by the Croatian authorities for the benefit of persons and groups vulnerable to THB. Such measures should be based on the identified causes of THB (economic and social conditions, poverty, inadequate education, absence of employment opportunities, gender-based violence, etc.) and should consist of actions aiming to decrease and ultimately eliminate these causes.**

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

77. 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 in and stay on its territory".

78. According to the Croatian authorities, the border police operates a national system for the surveillance of the state border which includes the necessary technical equipment and allows the collection of criminal data related to THB as a cross-border crime. GRETA was informed that since 2002, seven victims of THB have been identified during border control activities.

79. Information concerning the legal entry and stay on the territory of the Croatia is provided by the Ministry of Foreign Affairs and European Integration through embassies and consular representations of Croatia abroad and by means of the Ministry's web site, which contains information on the procedure for issuing visas. In addition, the web site of the Ministry of the Interior contains information on the residence and work of foreign nationals. Information on both web sites is available in Croatian and English.

80. GRETA is not aware of any measures taken to ensure informed and legal migration of Croatian nationals to foreign countries in order to enable them to identify potential THB risks. In GRETA's view, providing information concerning legal migration and the risks of illegal migration is an important part of preventing THB. **GRETA considers that the Croatian authorities should inform the general public, especially persons in socially and economically disadvantaged situation, about the importance of legal and safe migration**.

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

a. Identification of victims of trafficking in human beings

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

82. GRETA considers that victims of THB are a special category of victims and need to be differentiated from victims of other crimes. It is generally acknowledged that one of the specific features of THB is that it does not consist of a single criminal offence, but represents a chain of offences repeatedly committed in respect of the same person, often lasting a considerable amount of time and sometimes involving physical or psychological violence. The accompanying ill-treatment, denigration, abuse and neglect cause an overwhelming trauma on almost any victim of THB and deprive them of the capacity to lead a life fulfilling the basic conditions necessary for respecting the human dignity often during years after being freed from the trafficking chain. Unless victims of THB are correctly identified it would be impossible to remove them from the traffickers, re-integrate them into society and restore their infringed rights and dignity. Therefore, GRETA considers it essential for all victims of THB to be recognised as such.

83. The Protocol on Identification, Assistance and Protection of Victims of Human Trafficking sets out the normative and procedural framework for the identification of victims of THB. The Organised Crime Department of the Ministry of the Interior is responsible for the identification of THB victims. The identification process is initiated on the basis of information received from different sources, such as reports from NGOs, calls to the SOS telephone helpline, etc. NGOs may also initiate the identification procedure by referring victims to the Operative Team. Self-reporting of victims occurs very rarely, particularly in the case of male victims, irregular migrants and children, who either do not consider themselves as victims or are reluctant or fearful to come forward.

84. When there is information that a person might be a victim of trafficking, police officers of the Organised Crime Department invite the co-ordinator of the competent mobile team who is responsible for providing initial assistance and protection (including placing the potential victim in a reception centre, shelter or other accommodation facility) to participate in the identification interview. The interview is led by a specially trained police officer. Interviewed persons are informed of their procedural and other rights and, if necessary, are provided with medical and psychological assistance. During the interview, specific indicators are applied such as absence of identity documents, possession of false identity documents, signs of physical violence, the person not speaking the language(s) of the country where the passport was issued, etc. After the interview, the police determines if the person can be identified as a victim of trafficking and if that is the case, the National Co-ordinator and the Operative Team are informed without delay.

85. The Protocol on Identification, Assistance and Protection of Victims of Human Trafficking provides for a special procedure in the case of child victims of trafficking. If the potential victim is a child, the interview is carried out by a police officer responsible for the protection of children in the presence of the parents or legal guardian of the child. The work of the mobile team is co-ordinated by a representative of the social welfare authorities. The decision about accepting the assistance and protection programme is made by the child's guardian in consultation with the social welfare representative and taking into account the child's views.

86. Once the identification has been completed, the Operative Team grants the person concerned the status of a victim of THB and the National Co-ordinator informs the co-ordinator of the mobile team responsible for providing assistance and protection to victims of THB in the respective part of the country.

87. According to both governmental officials and non-governmental representatives, the low number of persons identified as victims of THB in Croatia (seven in 2008, eight in 2009 and seven in 2010) does not reflect the real situation. One of the objectives of the National Plan for 2009-2011 is therefore to strengthen proactive victim identification. To achieve this, it is planned to organise meetings between the 26 police officers, 27 border police officers and 10 prosecutors specialised in dealing with THB and ensuring the application of standard operative procedures, including for the purpose of improving the identification of THB victims.

88. According to information from non-governmental sources, 1948 irregular migrants were detected by Croatian law enforcement agencies in 2010, including 271 minors of whom 166 were unaccompanied. The contrast between these figures and the small number of identified foreign victims of THB (three in 2008, four in 2009 and three in 2010) calls for increasing efforts on the part of the Croatian authorities to improve identification for foreign victims of THB. The same goes for child victims of THB, of whom only three have been indentified in recent years.

89. Following the assessment carried out by the ICMPD (see paragraph 57), the Croatian authorities are becoming increasingly aware of the problem of THB for labour exploitation. The assessment highlighted in particular the need for sector-specific research (in the areas of tourism, agriculture and construction), improved training of labour inspectors and other relevant actors, improving the exchange of information and streamlining co-operation among national institutions. According to information obtained during GRETA's country visit to Croatia, measures to identify victims of trafficking for the purpose of labour exploitation remain largely insufficient. In this context, GRETA notes that no specific activities are included in the National Plan for 2009-2011 on improving the identification of victims trafficked for labour exploitation.

90. GRETA is concerned that a considerable number of victims of THB are likely to remain unidentified in Croatia and therefore fail to receive the protection they are entitled to in accordance with the Convention. Despite the existence of a national framework for the identification of victims of THB, the low number of identified victims suggests that there are lacunae in its implementation. Proactive outreach work to detect and identify victims and enhanced co-operation and co-ordination among governmental and non-governmental sectors are essential to ensure that no trafficked person remains unidentified.

91. **GRETA considers that the Croatian authorities should take further measures to:**

- **ensure that law enforcement agencies and other relevant actors adopt a proactive approach and increase their outreach work to identify victims of THB;**

- **implement targeted policy measures, including outreach work, for the identification of trafficked children;**

- **develop and implement measures necessary to detect THB for the purpose of labour exploitation, including through the provisions of training to staff of labour inspectorates, and carrying out regular inspections in areas where THB for the purpose of labour exploitation may occur;**

- **strengthen partnerships with NGOs to enhance their involvement in the identification of victims of THB.**

b. Assistance to victims

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

93. In Croatia, the assistance measures for victims of THB are provided for in the Protocol on Identification, Assistance and Protection of Victims of Human Trafficking. Persons who accept the individualised assistance and protection programme are to be provided with safe accommodation adapted to their age and needs. Such accommodation may be provided in a shelter for victims of THB or, when the personal circumstances of the victim so require, in a social welfare institutions. Other measures include psychological and social rehabilitation, material assistance for personal needs, access to emergency medical care, medical assistance, interpretation services for foreign victims, and free legal aid. Child victims are also entitled to access to education. Furthermore, training is provided to victims of THB to ensure their access to the labour market.

94. The task of co-ordinating and providing the above-mentioned assistance measures is given to the four mobile teams mentioned in paragraph 21. Victims of THB are referred to the mobile team in accordance with the location where they were identified. Members of the mobile teams are available on a 24-hour basis. In order to ensure 24-hour availability of county coordinators who are members of the mobile teams, the Ministry of Health and Social Welfare reportedly spent some 18 000 euro in 2009. The assistance and protection measures are funded from the state budget (32 346 euro were allocated in 2008 and 49 673 euro in 2009). The total number of victims who received assistance was 7 in 2008, 8 in 2009 and 7 in 2010 (i.e. all identified victims). The Croatian authorities have indicated that victims of THB who do no accept the individualised assistance and protection programme are nevertheless provided with emergency assistance, including medical and psychological aid.

95. There are currently two shelters providing safe accommodation to victims of THB: one for adults and one for children. 5 victims of trafficking were accommodated in shelters in 2008, 4 in 2009 and 5 in 2010. Safety and protection considerations are given particular attention from the moment of identification of victims until the completion of the assistance and protection programme, including their repatriation where appropriate. However, during the visit to one of the shelters, the GRETA delegation came across an example of disrespect for the privacy of victims and the confidentiality of their personal information by some of the shelter's employees, and was concerned by what seemed to be an excessive limitation of the personal liberty of victims. **GRETA considers that a better balance should be struck between the need to place victims of THB who have obtained residence permits in a shelter, which has a special regime, and the need to achieve their recovery and rehabilitation through access to education, vocational training and employment. Greater awareness is necessary among staff working with victims of trafficking as regards the need to respect the confidentiality of victims' personal data and victims' privacy. Any limitation of the personal liberty of victims of THB should always be proportionate to the objectives aimed at by such limitation.**

96. GRETA welcomes the efforts made by the Croatian authorities to provide and finance the assistance to victims of THB identified in accordance with the Protocol on Identification, Assistance and Protection of Victims of Human Trafficking, and to ensure an adequate quality of these measures. According to information provided by the Croatian authorities, when there are reasonable grounds to believe that a person is a victim of THB, prior to being officially identified by police officers from the Organised Crime Department, he/she is provided with the necessary medical and psychological assistance envisaged by the Protocol.

97. GRETA notes that three men were identified as THB victims in 2008, two in 2009 and one in 2010. At the same time, all NGOs assisting victims of THB are currently specialised in working with women and/or child victims of THB, and there are no dedicated accommodation facilities for male victims of THB. The Croatian authorities have indicated that accommodation for male victims of trafficking can be provided, if necessary, in a separate area of the existing shelters, and that as a matter of principle male victims are entitled to the same assistance and protection programmes as female victims. **GRETA invites the Croatian authorities to carry out and assessment as to whether the available measures are adapted to the needs of male victims of trafficking.**

c. Recovery and reflection period

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

99. According to statistical information provided by the Croatian authorities, seven persons were granted a recovery and reflection period in 2008, and eight in 2009 (i.e. all victims of THB identified during these two years).

100. Croatian legislation contains two sets of provisions concerning the recovery and reflection period. Article 71 of the Aliens Act establishes a 60-day period during which an alien, identified as a victim of trafficking shall be entitled to decide whether to participate in the assistance and protection programme. For child victims this period is 90 days, during which the decision is taken by the legal guardian, bearing in mind the best interests of the child. Further, the Protocol on Identification, Assistance and Protection of Victims of Human Trafficking (Article 3, second paragraph) contains a similar provisions, which gives a victim of THB 60 days (in case of child victims – 90 days) to decide whether or not to accept the programme of assistance and protection.

13 See the Explanatory Report on the Convention, paragraphs 173-175.

101. The Croatian authorities have confirmed that during the recovery and reflection period, victims of THB are provided with assistance and protection measures; in particular, medical and psychological assistance is provided through the Ministry of Health and Social Welfare, and NGOs provide alternative accommodation.

d. Residence permits

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

103. Pursuant to Article 68 of the Aliens Act, one of the grounds for issuing a temporary residence permit to a foreigner is that he/she has the status of a victim of THB. The issue of a temporary residence permit does not depend on the victim's willingness to co-operate with the law enforcement authorities. First-time temporary residence permits are issued with the term of validity from six months to one year and may be extended further. The Ministry of the Interior is responsible for issuing temporary residence permits. A victim of THB who was granted a temporary residence permit is entitled to safe accommodation, protection of health, financial assistance, education and access to the labour market.

104. According to statistical information provided by the Croatian authorities, out of a total of three foreign victims of THB in 2008, only one was granted a temporary stay permit, and out of four foreign victims of THB in 2009, none was granted such a permit. As explained by the Croatian authorities, most of the foreign victims of THB wish to be repatriated to their countries and do not apply for a temporary residence permit.

105. **GRETA encourages the Croatian authorities to ensure that victims of THB are systematically provided with information concerning the right to apply for a temporary stay permit, including the procedure to follow and the conditions to be met.**

e. Compensation and legal redress

106. Article 15 of the Convention establishes the obligation for Parties to provide in their internal law for the right of victims of trafficking to legal assistance and free legal aid. Parties must also provide for the right of victims of trafficking to compensation from the perpetrators as well as adopt legislative or other measures to guarantee compensation for victims from the State. Further, Article 15(1) of the Convention establishes that victims of trafficking must have access to information on relevant judicial and administrative proceedings in a language which they can understand.

107. In accordance with Articles 43 and 44 of the CPA, the relevant authorities (court, public prosecutor, investigator or police) are obliged to inform victims of a criminal offence of their procedural rights. Article 43(2) specifies that a victim of a criminal offence punishable by imprisonment of five or more years has the right to receive compensation for tangible and intangible damages under the conditions and in the manner prescribed by law. In addition, victims have the right to claim compensation through civil proceedings.

108. The Act on Pecuniary Compensation of Damage to Crime Victims regulates the right to State compensation to victims of violent criminal offences committed with an intent, which includes victims of THB. Under this Act, the victim has the right to compensation when the perpetrator is not known or has no assets. A special Committee whose members are appointed by the Government decides on the compensation claim. However, GRETA is concerned that this Act only applies to victims who have suffered serious bodily injury or impairment of health. Furthermore, the Act will only enter into force when Croatia becomes a member of the European Union and the application of its provisions will be limited to victims of THB who are nationals of EU member states.

109. According to NGOs met by the GRETA delegation, victims of THB are not always aware of the possibility to claim compensation from the offender. There has been only one case, in 2009, when a victim of THB obtained compensation from the perpetrator.

110. **GRETA considers that the Croatian authorities should adopt legislative and practical measures to facilitate access to compensation for all victims of THB, and in particular:**

- **ensure that victims of THB are systematically informed of the right to obtain compensation and the procedures to be followed;**

- **enable victims of trafficking to exercise their right to compensation by ensuring their effective access to legal aid;**

- **include all victims of THB into the scope of the Act on Pecuniary Compensation of Damage to Crime Victims, irrespective of their nationality and residence status, or the type of injury sustained;**

- **consider amending the Act on Pecuniary Compensation of Damage to Crime Victims to allow its entry into force at the earliest convenience.**

f. Repatriation and return of victims

111. Article 16 of the Convention requires Parties to establish repatriation programmes which am at avoiding re-victimisation and involve relevant national or international institutions and NGOs, as well as to make efforts to favour the reintegration of victims into the society of the State of return. Parties must also make available to victims of trafficking contact information or structures that can assist them in the country of return, such as law enforcement offices, NGOs, legal professionals and social welfare agencies. The return of victims of trafficking must preferably be voluntary and needs to be carried out with due regard for the rights, safety and dignity of the person and for the status of any legal proceedings related to the fact that the person is a victim of THB.

112. The repatriation and return of victims of THB is regulated by Article 75 of the Aliens Act, which states: “the safe return of an alien who has victim status shall be conducted by the Ministry [of the Interior] taking into account his rights, safety and dignity. If possible, the return should be voluntary. Minors who are victims of trafficking shall not be returned to any state if, after an evaluation of the risks and safety, there are indications that the return would not be in the best interests of the minor”. In addition, the Protocol on Procedures during the Voluntary Return of Human Trafficking Victims contains provisions concerning the decision on voluntary return, the assessment of risks and safety of return, the return procedure and safe transportation.

113. The Ministry of the Interior is responsible for the return of foreign victims of THB. If the victim is a child, repatriation is carried out by the social welfare authority. Prior to their return, the Department of Illegal Migrations within the Border Directorate of the Ministry of the Interior co-operates with NGOs and public bodies providing assistance to victims and contacts are made with the relevant authorities in the country of return. A risk assessment is made, in co-operation with the Organised Crime Department of the Ministry of the Interior. The return of victims of trafficking is carried out by officers of the Department of Illegal Migrations who wear civilian clothes and use unmarked vehicles with due regard to the victim’s safety and dignity. The Department of Illegal Migrations follow the guidelines developed under the ICMPD Programme to Support the Development of Transnational Referral Mechanisms for Trafficked Persons in South-Eastern Europe.

114. That said, GRETA was informed by NGOs that the return of victims of THB is at times marked by difficulties caused by insufficient co-operation between Croatia and receiving states. Furthermore, some representatives of NGOs have expressed concern about the practice of returning victims of THB in police cars, accompanied by police officers in uniforms. According to the Croatian authorities, there has been only one case of a return of a victim of THB in a police vehicle car because the person concerned insisted on being returned as soon as possible and no other vehicle was available.

115. GRETA notes that both the Aliens Act and the Protocol on Procedures during the Voluntary Return of Human Trafficking Victims refer to voluntary return. GRETA also notes that the first paragraph of Article 75 of the Aliens Act states: "if possible, the return should be voluntary". The Croatian authorities have indicated that no involuntary returns of victims of THB have taken place as Croatia does not deport victims of THB.

116. **GRETA encourages the Croatian authorities to continue ensuring that the existing framework for the voluntary return of victims of THB is applied, with due regard to the safety, dignity and protection of victims and, in the case of children, by fully respecting the principle of the best interest of the child.**

117. **Further, GRETA encourages the Croatian authorities to develop co-operation arrangements with States of return with a view to ensuring effective and comprehensive risk assessment relating to the possible return of victims of THB and enable their safe return.**

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

a. Substantive criminal law

118. 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).

119. In accordance with Article 175 of the CC (see paragraph 35), the offence of THB is punishable by imprisonment from one to 10 years. The aggravating circumstances listed in the same Article include the commission of THB against a child by a group or criminal organisation, by a public official, against a large number of persons, or by causing the death of one or more persons, which are punishable by no less than five years or by long-term imprisonment (under Croatian law, long-term imprisonment is defined as imprisonment from 20 to 40 years).

120. The penalties for the commission of THB include imprisonment, fine and the confiscation of assets. In certain cases, an imprisonment sentence may be accompanied with the suspension of activity or closure of business as a separate sanction.

121. As regards the possibility for the courts to take into account previous convictions in another Party when determining a penalty for the offence of THB, GRETA recalls that the purpose of this provision is to enable courts to establish recidivism of the commission of THB and take it into account as an aggravating circumstance when passing final sentences. Pursuant to Article 56 of the CC, when determining penalties for criminal offences, the court takes into account aggravating and mitigating circumstances, as well as the previous criminal record of the offender. Before passing a decision the courts always request information on previous convictions from the Ministry of Justice. Foreign court decisions are obtained through the Ministry of Justice in accordance with the rules of mutual legal assistance.

122. The known use of services of trafficked persons is criminalised under Article 175(4) of the CC (see paragraph 35). GRETA was informed that no convictions were delivered under this provision in 2008, 2009 and 2010.

123. Croatian legislation establishes the criminal liability of legal persons through the Act on the Liability of Legal Entities for Criminal Offenses. The sanctions that may be imposed on legal entities include closure of business, monetary fine, suspended sentence, ban on carrying out certain activities, ban on subventions, as well as ban on doing business with beneficiaries of the state budget. There have been not convictions of legal entities for THB under this Act for the time being.

124. The Croatian CC contains a number of provisions criminalising forgery of documents, including official documents, making available the means for forging documents, and official certification of untrue content. These offences are punishable in general, and not necessarily when committed for the purpose of enabling THB. Croatian legislation does not criminalise the removing, concealing or destroying of travel or identity documents committed for enabling THB. Furthermore, the interpretation of Article 20(c) of the Council of Europe Anti-Trafficking Convention contained in the Handbook for Diplomatic and Consular Officials suggests that "the States are not obliged to introduce this incrimination into their legislation, but it is only recommended". In this respect, GRETA would like to stress that traffickers often take victims' travel and identity documents from them as a way of exerting pressure. The wording of Article 20(c) of the Convention in this respect clearly places an obligation on Parties to adopt such legislative and other measures as may be necessary to establish as criminal offences retaining, removing, concealing, damaging or destroying a travel or identity document of another person. The Explanatory Report to the Convention (paragraphs 241 and 242) states that Parties are only free to decide whether this offence should also include similar actions in respect of a fraudulent travel or identity document[14]. **Therefore, GRETA considers that the Croatian authorities should take the necessary measures to establish as criminal offences the acts of retaining, removing, concealing, damaging or destroying a travel or identity document of another person when committed intentionally and for the purpose of enabling THB.**

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

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

126. The Croatian authorities have referred to Article 31 of the CC which states that "there shall be no criminal offense when the perpetrator acts under the influence of irresistible coercion. If the perpetrator commits a criminal offense under resistible coercion or threat, the provisions of Article 30 of this Code shall apply, treating such coercion or threat as a danger".

127. Pursuant to the National Plan for 2009-2011, no criminal or other charges are brought against persons who have been identified as victims of THB as long as the offences or misdemeanours were committed during the period when they were victims. The Croatian authorities have confirmed that no criminal charges have been brought against victims of THB.

c. Investigation, prosecution and procedural law

128. 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).

[14] See paragraphs 241 and 242 of the Explanatory Report.

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

130. According to the Croatian CC, legal proceedings relating to the offence of THB have to be initiated by a public prosecutor *ex officio*. If a public prosecutor does not find sufficient grounds for initiating criminal proceedings, such proceedings may be initiated at the request of the injured party. Pursuant to Article 202(11) of the CPC, an injured party is, in addition to the victim, any other person whose any personal or property right was violated or endangered by a criminal offence, and who participates having the status of the injured person in criminal proceedings.

131. According to the Croatian authorities, since 2008, the investigations conducted by the police on THB cases are led by prosecutors. According to official statistics, criminal proceedings for the offence of THB were initiated in nine cases in 2008 and five cases in 2009. The number of convictions was eight in 2008 and six in 2009 (including convictions in relation to cases on which criminal proceedings were initiated prior to the respective year). The terms of imprisonment ranged from one to eight years in 2008, and from two to eight years in 2009. Further, one of the convictions in 2009 resulted in the confiscation of assets. In 2010, there were three convictions against five perpetrators, involving sanctions up to two years of imprisonment. According to the Croatian authorities, all convictions were effectively enforced.

132. Representatives of the prosecution and judicial authorities confirmed that prosecutions for the offence of THB have been rare and indicated that the charges are usually difficult to prove. According to representatives of the judiciary met by the GRETA delegation during the country visit to Croatia, one of the most important reasons for the low number of successful prosecutions for THB cases is the difficulty to find victims of THB who are willing to provide evidence against the traffickers. In some cases, victims who initially co-operated with the investigation later stepped out of the proceedings and were no longer willing to participate as witnesses.

133. Indeed, one of the shortcomings highlighted in the National Programme for the Protection and Promotion of Human Rights for 2008-2011 is the inadequate efficiency of the prosecution and sanctioning of traffickers and insufficient awareness about THB. As a solution, one of the measures suggested in the Programme is the provision of increased training to judges and public prosecutors on the legislation concerning THB.

134. Articles 43 to 46 of the new CPA, which entered into force on 1 September 2011, set forth the rights of victims of any criminal offence, including the right to psychological and other assistance and support from bodies, organisations or institutions for providing assistance to victims, and the right to participate in criminal procedure as an injured party. Moreover, in accordance with Article 44 of the CPA, if the victim is a child, he/she has the right to a legal representative paid from the state budget, confidentiality of personal information and exclusion of the public from court proceedings.

135. Municipal and county courts in Croatia operate Offices for the Support of Victims of Criminal Offenses. These offices are not specific to victims of THB and provide advise and emotional support to victims of any crime who are participating in court proceedings as witnesses. The contact with the victim usually takes place from 30 minutes to one hour before the trial, and the main objective is to inform victims of their basic rights and give them moral encouragement.

136. During meetings held in the context of GRETA's country visit to Croatia, some members of the judiciary and representatives of NGOs indicated that the information and assistance provided to victims of THB in connection with their participation in criminal proceedings, and in particular the legal assistance available to them, are insufficient and should be improved. Further, judges are reportedly not sufficiently aware of the particular vulnerability of victims of THB.

137. **GRETA urges the Croatian authorities to step up the training provided to judges, prosecutors and other relevant professionals on the issue of THB and the relevant criminal law provisions with a view to ensuring practical application of these provisions so that traffickers are prosecuted and receive sentences commensurate with the seriousness of this offence.**

138. **Further, GRETA encourages the Croatian authorities to make full use of the protection measures envisages in law in respect of witnesses who are victims of THB and/or their families where necessary.**

5. Concluding remarks

139. The Croatian authorities have made significant efforts in preventing and combating THB since the ratification of the Council of Europe Anti-Trafficking Convention. The national anti-trafficking framework is set up in a manner which demonstrates the intention to take a victim-centred approach. Action against THB is included in the main human rights-related policy documents, which also illustrates the willingness of the Croatian authorities to reflect the human rights concerns when preventing THB and protecting its victims.

140. GRETA welcomes the importance and place that is given to action against THB by the Croatian authorities, as well as the comprehensive framework which has been set up to combat this phenomenon. However, to bring all anti-trafficking measures into full compliance with the human rights-based approach adopted by the Convention, GRETA considers that the Croatian authorities should take further steps in the areas of prevention, identification of victims and providing them with assistance and protection. In GRETA's view, carrying out research on THB trends, including on gender aspects of trafficking and trafficking in children, as well as undertaking an independent evaluation of the effectiveness of anti-trafficking measures, will reinforce the human rights-based approach.

141. Further, GRETA considers that the application of the criminal legislation could be improved, in particular by providing adequate training to legal professionals in order to secure sentences for traffickers, which are commensurate with the gravity of this offence. The Croatian authorities should also take steps to ensure that victims of trafficking have effective access to legal redress and compensation, regardless of their nationality and the types of injuries suffered.

142. GRETA invites the Croatian 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 Croatian Government for achieving the purposes of this Convention.

Appendix I: List of GRETA's proposals

Comprehensive approach and co-ordination

1. GRETA invites the Croatian authorities to:

- ensure that the representatives of all public bodies included in the Operative Team actively participate in its work;
- draw up clear selection criteria for membership of NGOs in the anti-THB bodies and make these criteria available to all interested NGOs;
- encourage the participation of NGOs in the activities of the mobile teams by keeping them informed of the anti-THB activities and their results;
- take practical measures to improve co-operation and communication between the police at local level and NGOs, especially as regards the identification of victims of THB.

2. Further, in addition to the internal reports on the implementation of the National Plan, GRETA invites the Croatian authorities to introduce a periodic independent evaluation of the National Plan as a tool for assessing the impact of the activities and for planning future policies and measures to combat THB.

Data collection and research

3. GRETA welcomes the setting up of a data collection mechanism on THB by the Croatian authorities, which enables the compiling of statistical information and allows its disaggregation (concerning gender, age, type of exploitation, country of origin and/or destination, etc.). GRETA considers that the Croatian authorities should enhance exchanges of statistical information among the agencies responsible for the supervision of migration, employment and combating THB. This should be accompanied by all the necessary measures to respect the right of data subjects to personal data protection. In addition, the Croatian authorities should also collect statistical information as regards arrests, prosecutions and convictions for the offence of THB.

4. Further, GRETA considers that the Croatian authorities should conduct and support research on THB-related issues, with particular emphasis on the gender dimension and trafficking in children, as an important source of information for future policy measures in the field of action against THB.

International co-operation

5. GRETA encourages the Croatian authorities to continue international co-operation in the criminal field with a view to combating THB and to enhance international co-operation in the non-criminal field with all relevant countries.

Awareness raising

6. GRETA considers that the Croatian authorities should continue to raise public awareness with a view to achieving a better understanding of THB and the situation of victims of trafficking. Awareness-raising campaigns, education in schools and specialised training of relevant professionals should aim at overcoming the existing prejudice against victims of THB and increasing public awareness about the importance of reporting suspected THB cases. The prevention efforts should be based on research and evaluation of the impact of campaigns and education measures taken in the past.

7. GRETA invites the Croatian authorities to continue raising awareness on trafficking for the purpose of labour exploitation, including among labour inspectorates, trade unions, social workers and recruitment agencies. The list of indicators drawn up by the ICMPD to detect cases of THB for the purpose of labour exploitation should be used by relevant officials.

Social, economic and other initiatives to groups vulnerable to THB

8. GRETA urges the Croatian authorities to enable the application of the Protocol on integration and reintegration of victims of trafficking in human beings to all victims of THB, regardless their nationality and residence status.

9. GRETA considers that specific economic and social measures should be taken by the Croatian authorities for the benefit of persons and groups vulnerable to THB. Such measures should be based on the identified causes of THB (economic and social conditions, poverty, inadequate education, absence of employment opportunities, gender-based violence, etc.) and should consist of actions aiming to decrease and ultimately eliminate these causes.

Border measures to prevent THB and measures to enable legal migration

10. GRETA considers that the Croatian authorities should inform the general public, especially persons in socially and economically disadvantaged situation, about the importance of legal and safe migration.

Identification of victims of trafficking in human beings

11. GRETA considers that the Croatian authorities should take further measures to:

- ensure that law enforcement agencies and other relevant actors adopt a proactive approach and increase their outreach work to identify victims of THB;

- implement targeted policy measures, including outreach work, for the identification of trafficked children;

- develop and implement measures necessary to detect THB for the purpose of labour exploitation, including through the provisions of training to staff of labour inspectorates, and carrying out regular inspections in areas where THB for the purpose of labour exploitation may occur;

- strengthen partnerships with NGOs to enhance their involvement in the identification of victims of THB.

Assistance to victims

12. GRETA considers that a better balance should be struck between the need to place victims of THB who have obtained residence permits in a shelter, which has a special regime, and the need to achieve their recovery and rehabilitation through access to education, vocational training and employment. Greater awareness is necessary among staff working with victims of trafficking as regards the need to respect the confidentiality of victims' personal data and victims' privacy. Any limitation of the personal liberty of victims of THB should always be proportionate to the objectives aimed at by such limitation.

13. GRETA encourages the Croatian authorities to assess whether the measures available are adapted to the needs of male victims of trafficking.

Residence permits

14. GRETA encourages the Croatian authorities to ensure that victims of THB are systematically provided with information concerning the right to apply for a temporary stay permit, including the procedure to follow and the conditions to be met.

Compensation and legal redress

15. GRETA considers that the Croatian authorities should adopt legislative and practical measures to facilitate access to compensation for all victims of THB, and in particular:

- ensure that victims of THB are systematically informed of the right to obtain compensation and the procedure to be followed;
- enable victims of trafficking to exercise their right to compensation by ensuring their effective access to legal aid;
- include all victims of THB into the scope of the Act on Pecuniary Compensation of Damage to Crime Victims, irrespective of their nationality and residence status, or the type of injury sustained;
- consider amending the Act on Pecuniary Compensation of Damage to Crime Victims to allow its entry into force at the earliest convenience.

Repatriation and return of victims

16. GRETA encourages the Croatian authorities to continue ensuring that the existing framework for the voluntary return of victims of THB is applied, with due regard to the safety, dignity and protection of victims and, in the case of children, by fully respecting the principle of the best interest of the child.

17. Further, GRETA encourages the Croatian authorities to develop co-operation arrangements with States of return with a view to ensuring effective and comprehensive risk assessment relating to the possible return of victims of THB and enable their safe return.

Substantive criminal law

18. GRETA considers that the Croatian authorities should take necessary measures to establish as criminal offences the acts of retaining, removing, concealing, damaging or destroying a travel or identity document of another person when committed intentionally and for the purpose of enabling THB.

Investigation, prosecution and procedural law

19. GRETA urges the Croatian authorities to step up the training provided to judges, prosecutors and other relevant professionals on the issue of THB and the relevant criminal law provisions with a view to ensuring practical application of these provisions so that traffickers are prosecuted and receive sentences commensurate with the seriousness of this offence.

20. Further, GRETA encourages the Croatian authorities to make full use of the protection measures envisages in law in respect of witnesses who are victims of THB and/or their families where necessary.

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

Public bodies

- Government Office for Human Rights
- National committee for suppression of trafficking in human beings
- Ministry of the Interior
- Ministry of Foreign Affairs and European Integration
- Ministry of Justice
- Ministry of Health and Social Welfare
- Regional Center for social welfare
- Office of the Ombudsman for children
- Office of the Ombudsman for women's rights
- Office of the Public Prosecutor and Office for suppression of corruption and organized crime

Intergovernmental organisations

- International Centre for Migration Policy Development (ICMPD)

Non-governmental organisations

- The Croatian Red Cross
- PETRA network of NGOs, consisting of the following:
    - Autonomous Women's House, Zagreb
    - Centre for Civil Initiatives, Poreč
    - Centre for Women victims of war "Rosa", Zagreb
    - Dolphin, Pakrac
    - Organisation for the Integrity and Prosperity (OIP), Split
    - SOS hotline, Virovitica
    - Women's Association, Vukovar
    - Women's Group, Split
    - Women's Association Brod, Slavonski Brod
    - Women's Room, Zagreb
- Ms Lovorka Marinovic, independent expert on combating trafficking in human beings

Government's comments

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

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

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Zagreb, 9. studeni 2011.

Council of Europe
Justice and human dignity directorate
Executive secretary of the Council of Europe
Convention on Action against Trafficking in Human Beings

Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings, final comments

The Republic of Croatia wishes to thank the GRETA delegation Ms Nell Rasmussen, Ms Josie Christodoulou and Mr David Dolidze, administrator at the Secretariat of the Council of Europe Convention on Action against Trafficking in Human Beings for the excellent cooperation during the whole monitoring period.

Also, the Republic of Croatia is very appreciative of the comments and proposals made by the GRETA delegation in order to further improve the established system of suppression of trafficking in human beings. We find the proposals to be constructive, useful and they will serve as an incentive for further development of the established system.

However, regarding some of the above mentioned proposals we do not fully agree with the comments made, and in the text to follow we will try to elaborate our position on those proposals as well as elaborate the already implemented proposals from the GRETA draft Report.

Comprehensive approach and co-ordination

1. Regarding the proposals set in this chapter:

- development of the selection criteria for membership of NGOs in the ant-trafficking bodies has already been foreseen as one of the measures within the proposal of the new National plan for suppression of trafficking in human beings 2012-2015
- the participation of NGO's in the activities of the mobile teams is foreseen by the Protocol on identification, help and assistance to victims of trafficking in human beings, clearly stating them as members of the mobile teams. The Government has already taken steps to further strengthen their role by providing additional training within the new draft of the National plan for suppression of trafficking in human beings 2012-2015. Also, members of the NGO's are systematically informed about all anti-trafficking activities and their results trough their participation at every meeting of the Operational team.

2. The Republic of Croatia finds periodic independent evaluation of the National plan for suppression of trafficking in human beings to be a very useful tool in its monitoring, and will consider adopting this measure in the upcoming period depending of the available state budget.

Data collection and research

3. The Republic of Croatia wishes to state that the statistical information as regards prosecution and convictions for the offence of THB is gathered by the Ministry of Interior and State's Attorney's Office. The information for each year can also be found in the yearly Report on the implementation of the National plan for suppression of trafficking in human beings which is adopted by the Government.

Identification of victims of THB

9. Regarding the proposals set in this chapter:

- the Office for Human Rights has already suggested measures in the proposal of the new draft National plan for Roma regarding the implementation of targeted policy measures with special attention to suppression and prevention of trafficking in Roma children
- Republic of Croatia wishes to emphasize that measures to detect THB for the purpose of labour exploitation have already been done. The Office for Human Rights in partnership with the ICMPD has carried out a project „Targeting niches in the anti-trafficking efforts: customized support for Croatia" with special emphasis on trafficking for the purpose of labour exploitation. The main target group was labour inspectors from the Labour Inspectorate of Republic of Croatia. Within this project a research on the current trends in the Republic of Croatia with the special focus on labour exploitation has been conducted. In this research the list of indicators to detect cases of trafficking in human beings was included. This research as well as the indicators was distributed to all relevant institutions, and the research itself is available on the web pages of both Office for Human Rights and ICMPD
- The Republic of Croatia finds this recommendation to overlap with the previous one made about the mobile teams. Members of NGOs who are also members of the mobile teams are included in the identification of victims of trafficking in human beings. NGOs can also provide the Ministry of Interior with tips regarding potential victims of trafficking received trough the SOS help line. They are also given all the necessary information about identified victims on Operational team meetings.

Assistance to victims

10. Regarding this proposal the Republic of Croatia wishes to emphasize that the victims who are placed in the shelters are there because of their personal safety and the need of all the special attention the shelter staff can provide, specially access to education, vocation training and employment. Also, the staff of the shelter is fully aware and they respect the absolute need to protect the victim's privacy and confidentiality of victim's personal data. The location of the shelters and the name of the NGOs who run it are kept a secret from general population thus ensuring the protection of victim's safety. There has not been a single documented case where any of the shelter staff made public the location of the shelter or personal data of any victim.

Residence permits

12. Regarding this proposal the Republic of Croatia wishes to emphasize that such measures have already been done. Namely, at the first interview the identified victim is informed about all of her/his rights under the national referral system and among others about the right to apply for residence permits. According to the Protocol on identification, help and assistance to victims of trafficking in human the victim is informed on her rights by the Ministry of Interior and the mobile team members. She is also informed about the right to free legal aid.

Compensation and legal redress

13. Regarding the proposals set in this chapter the Republic of Croatia:

- has to emphasize that all victims of THB are able to claim compensation through criminal proceedings and they have a right to free legal aid. These rights are explained to victims by the members of the mobile teams, police and staff in the safe shelter.
- the Act on Pecuniary Compensation of Damage to Crime Victims includes all victims of violent crimes (including THB) in its scope, and the Republic of Croatia will consider adopting that its provisions include the victims irrespective of their nationality and residence status. The provisions of the above mentioned Act now include citizens and residents of the Republic of Croatia and foreign citizens or residents of the EU member states
- the Act on Pecuniary Compensation of Damage to Crime Victims will enter into force on the day of the Republic of Croatia's acceptance into the EU membership. Since the text of this Act has been accepted by the Parliament, there is no possibility of making it enter into force earlier than written in its provisions.

Substantive criminal law

16. In the new Criminal Code, the Republic of Croatia has already established a new paragraph 5 to the article 106 "trafficking in human beings" that criminalises acts of retaining, removing, concealing, damaging or destroying a travel or identity document of another person when committed intentionally and for the purpose of enabling THB.

Investigation, prosecution and convictions

17. Republic of Croatia has increased the trainings provided to judges, prosecutors and other relevant professionals on the issue of THB in the new proposal of the National plan for suppression of trafficking in human beings 2012-2015.

Sincerely,

HEAD OF THE OFFICE

Luka Mađerić