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Group of Experts on Action
against Trafficking in Human Beings

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

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 to 19 June 2009). GRETA has decided that the duration of the first evaluation round shall be four years starting at the beginning of 2010 and finishing at the end of 2013.

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

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

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

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

Executive summary

The Danish authorities have taken a number of important steps to combat trafficking in human beings (THB). The offence of THB was introduced in the Danish Criminal Code in 2002 and multi-annual national action plans to combat THB have been adopted since that year, the latest covering the period 2011-2014. The Inter-Ministerial Working Group on Human Trafficking was established in 2002 to co-ordinate implementation of the activities included in the national actions plans. Furthermore, the Danish Centre against Human Trafficking (CMM) was set up in September 2007 to improve the social assistance offered to victims, to ensure co-operation among relevant governmental and non-governmental actors, and to collect information in the field of THB. The CMM has devised a system of national and regional referral groups to ensure that all actors involved in anti-trafficking efforts are linked to the implementation of the national action plans.

As far as the prevention of THB is concerned, GRETA notes that the awareness-raising efforts and measures to discourage demand have so far focused exclusively on trafficking in women for the purpose of sexual exploitation. In the light of indications that trafficking for the purpose of labour exploitation is also taking place, GRETA stresses the need to develop preventive measures to address this form of trafficking as well, in particular in the sectors of agriculture, construction and cleaning. In this context, GRETA welcomes the extended scope of the new National Action Plan (2011-2014) which strengthens action in relation to trafficking in children and trafficking for the purpose of labour exploitation.

The proper identification of victims is of paramount importance in order to protect and assist them. GRETA is concerned by the approach followed in Denmark concerning the identification of victims of trafficking, which has an illegal immigration focus. GRETA urges the Danish authorities to review the identification procedure, with a view to ensuring that potential victims of trafficking are treated in the first place as persons who have been exposed to human rights violations rather than as offenders. To this end, GRETA considers that the Danish authorities should ensure that all relevant professionals are systematically trained in the identification of victims of trafficking. GRETA also urges the Danish authorities to provide victims of trafficking with an adequate recovery and reflection period, in line with the Convention, rather than a time-limit to prepare their departure from the country as illegal aliens.

Victims and potential victims of trafficking need to be adequately protected, informed and assisted. To this end, GRETA urges the Danish authorities to provide all victims of trafficking with information, in an appropriate range of languages, on their legal rights (including the right to compensation) and obligations, the services and assistance measures available and how to access them. The Danish authorities should also ensure that all categories of victims of trafficking are provided with adequate support and assistance during their stay in Denmark, including access to education, vocational training and the labour market, in preparation for their return to their countries of origin, and in order to improve their reintegration and rehabilitation.

GRETA notes that only three victims of trafficking have received residence permits on the basis of humanitarian grounds in 2008-2010, and urges the Danish authorities to review the system for granting residence permits to victims of trafficking, with a view to ensuring that the victim-centred approach which underpins the Convention is applied and in order to prevent re-trafficking.

Very few victims of trafficking in Denmark have accepted the offer of assisted return. GRETA considers that the Danish authorities should review the current institutional and procedural framework for the return and repatriation of victims of trafficking having regard to their safety, protection and dignity and in order to avoid re-victimisation. Further, GRETA encourages the Danish authorities to continue co-operation efforts with the national authorities and relevant NGOs in the country of return of victims of trafficking, in order to improve their reintegration and rehabilitation.

GRETA notes that crimes committed under coercion by victims of trafficking are not considered as a special category exempting them from punishment, and urges the Danish authorities to take legislative measures allowing for the possibility of not imposing penalties on victims of trafficking for their involvement in criminal offences as a result of being trafficked. Further, GRETA urges the Danish authorities to ensure that potential victims of trafficking are not prosecuted while their identification is ongoing.

Regarding the prosecution of traffickers, GRETA considers that the Danish authorities should continue police investigations to detect cases of trafficking for sexual exploitation and step up proactive investigation of potential cases of trafficking for the purpose of labour exploitation, including through co-operation between the police, labour inspectors, employers' organisations and trade unions.

Finally, GRETA stresses the importance of good partnerships and their crucial role in making progress in combating THB at the national and international level. In this context, GRETA considers that the Danish authorities should further improve the co-ordination, co-operation and partnerships among governmental departments, the CMM, the police, NGOs and other members of civil society in Denmark.

I. Introduction

1. Denmark deposited the instrument of ratification of the Council of Europe Convention on Action against Trafficking in Human Beings ("the Convention") on 19 September 2007[1]. 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, Denmark being in the first group of 10 Parties to be evaluated in 2010-2013.

3. In accordance with Article 38 of the Convention, GRETA proceeded with the examination of the measures taken by Denmark 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 Denmark on 10 February 2010. The deadline for replying to the questionnaire was 1 September 2010. Denmark submitted its reply on 3 September 2010[2].

4. In preparation of the present report, GRETA used the reply to the questionnaire by Denmark, other information collected by GRETA and information received from civil society. In addition, a country visit to Denmark took place from 25 to 28 January 2011. It was carried out by a delegation composed of:

- Ms Alexandra Malangone, member of GRETA
- Ms Gulnara Shahinian, First Vice-President of GRETA
- Ms Petya Nestorova, Executive Secretary of the Council of Europe Convention on Action against Trafficking in Human Beings
- Ms Carolina Lasén Diaz, Administrator at the Secretariat of the Convention.

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

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

7. Further, in the context of the country visit, the GRETA delegation visited accommodation facilities for victims of trafficking in human beings, including an NGO-run shelter for women and a centre for unaccompanied minors who seek asylum in Denmark, run by the Danish Red Cross.

8. GRETA wishes to place on record the valuable assistance provided by the contact person appointed by the Danish authorities, Ms Ane Maria Røddik Christensen, Head of Section at the Ministry of Justice.

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

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[1] At the time of ratification of the Convention, the Danish authorities declared that it shall not apply to the Faroe Islands and Greenland, until further decision.

[2] The reply to the questionnaire has been made public at the request of the Danish authorities, see: http://www.coe.int/t/dghl/monitoring/trafficking/Source/GRETA_2011_01_R_Q_DNK_en.pdf.

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

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

10. According to the Danish authorities, Denmark is primarily a country of destination and transit for victims of trafficking in human beings (THB). Official data show an increase in the number of identified victims of trafficking in the last three years (29 in 2008, 48 in 2009, 52 in 2010). The main form of THB in Denmark is transnational trafficking of women for sexual exploitation, with most identified victims originating from Africa and Asia (in particular Nigeria and Thailand). There have been only two cases of identified victims of trafficking for the purpose of labour exploitation, both in 2010, and two cases of internal trafficking (i.e. within Denmark), one in 2010 and another one in 2011. The number of identified child victims of trafficking remains very low (one in 2009, two in 2010). Criminal proceedings against traffickers resulted in seven convictions in 2008, 11 in 2009 and 11 in 2010.

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

a. Legal framework

11. At the international level, in addition to the Council of Europe Anti-Trafficking Convention, Denmark is Party to the United Nations (UN) Convention against Transnational Organised Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (both of which it ratified in 2003).

12. Denmark is the only Member State of the European Union (EU) not bound by the new Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims[3]. This is due to the fact that the 2007 Lisbon Treaty[4] kept a number of exemptions (or "opt-outs") that Denmark had secured since the 1992 Maastricht Treaty[5], including measures in the area of justice and home affairs (JHA), while allowing for the possibility to "opt-in" and take part in the adoption and application of JHA measures, on a case-by-case basis. Directive 2011/36/EU replaces the previous Council Framework Decision 2002/629/JHA on combating trafficking in human beings in all EU Member States except for Denmark, where it remains applicable.

13. EU Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, and who co-operate with the competent authorities, is not applicable in Denmark either. On the other hand, Denmark is bound by EU Directive 2004/80/EC relating to compensation to crime victims, as well as by Council Framework Decision 2001/220/JHA of 15 March 2001 on the standing of victims in criminal proceedings.

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3 See paragraph 36 of the Preamble of EU Directive 2011/36/EU.

4 Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community, signed on 13 December 2007, Official Journal of the European Union no. C-306, of 17 December 2007.

5 Treaty on European Union, signed in Maastricht on 7 February 1992, Official Journal no. C-191, of 29 July 1992.

14. At the national level, there is no single comprehensive law covering all aspects of the action to combat THB and protect its victims. The main legal provisions concerning THB are found in Article 262(a) of the Criminal Code (CC) and the Aliens (Consolidation) Act[6]. Article 33(14) and (15) of the Aliens Act regulates the "delayed departure" of foreign victims of trafficking residing illegally in the country, while Article 9 provides for the possibility of obtaining a residence permit outside the asylum procedure (see paragraph 160). In addition, the State Compensation to Victims of Crime Act[7] can be applied to victims of trafficking.

15. Denmark ratified the European Convention on Human Rights and Fundamental Freedoms ("European Convention on Human Rights") in 1953 and incorporated it into national law by Act No. 285 of 29 April 1992. Consequently, the Convention is part of Danish legislation.

b. National Action Plans

16. Denmark's first National Action Plan (NAP) to combat THB, which was adopted in 2002[8], focused exclusively on women trafficked for sexual exploitation. In the period 2003 to 2006, 10 million DKK per year were earmarked for initiatives to combat this phenomenon. The objective of the first NAP was to prevent THB, establish outreach support for victims and ensure that they are prepared for repatriation to their countries of origin. In 2005, the first NAP was supplemented by an appendix aimed at preventing child trafficking and supporting children trafficked to Denmark. An evaluation of the first NAP was carried out in October 2006[9].

17. The second NAP to combat THB[10], covering the period from 2007 to 2010, provided the basis for the setting up of the Danish Centre against Human Trafficking (see paragraphs 24-26) and three shelters for victims of trafficking (see paragraph 135). The aim of this NAP was to ensure that all identified victims of trafficking are offered adequate support and are provided with an alternative to being re-trafficked. The NAP focused on four areas: strengthening investigations to identify and prosecute traffickers; supporting victims; preventing THB by reducing demand and increasing public awareness, and preventing THB by improving international co-operation, including prevention in countries of origin (see paragraph 83).

18. The Danish Government devoted 80 million DKK (approximately 10.8 million Euros) for the implementation of the second NAP, a considerable increase as compared to the funding allocated to the first NAP. The funding available for the second NAP was supplemented through Danish development assistance funds for preventive measures in countries of origin.

19. The Department of Gender Equality, which is responsible for monitoring the implementation of the NAP, commissioned an independent evaluation of the second NAP. This evaluation was carried out by the international consulting firm COWI[11]. It concluded that there had been considerable progress in the overall Danish response to THB and commended the explicit focus of the NAP on minors and victims of trafficking for forced labour. However, the evaluation noted that efforts to address the problem of forced labour and undertake research on the extent to which this form of trafficking is taking place in Denmark started only in 2009.

20. The conclusions of this evaluation, together with the experience gained and international developments, were taken into account when drawing up the third NAP for the period 2011-2014[12].

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6 Aliens (Consolidation) Act No. 947 of 24 August 2011.

7 State Compensation to Victims of Crime (Consolidation) Act No. 688, of 28 June 2004.

8 The Danish Government's action plan to combat trafficking in women, Department of Gender Equality, December 2002.

9 Evaluation of the Action Plan to Combat Trafficking in Women (summary in English) by Consultancy within Engineering, Environmental Science and Economics (COWI) 2006.

10 Action Plan to Combat Trafficking in Human Beings 2007–2010, Department of Gender Equality, March 2007.

11 Evaluation of the Danish Action Plan for combating of trafficking in human beings, 2007-2010 (summary in English) by COWI (Consultancy within Engineering, Environmental Science and Economics), 2010.

12 Action Plan to combat human trafficking 2011-2014, L. Friis, L. Barfoed, S. Pind, P. Christensen, B. Kiær, B. Haarder and I. Støjberg, 2011.

The third NAP, which was adopted in June 2011, has as overall goals to decrease the number of victims of trafficking in Denmark and to ensure that victims identified in Denmark are supported in the best possible way. 85.6 million DKK have been allocated to its implementation.

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

a. Inter-Ministerial Working Group on Human Trafficking and Department of Gender Equality

21. The Inter-Ministerial Working Group on Human Trafficking was established in 2002 with the aim of co-ordinating the implementation of the NAPs. Its mandate was revised in 2007 in the light of the enlarged scope of the Danish policy to combat THB beyond the initial focus on women victims of trafficking for sexual exploitation, and the Inter-Ministerial Working Group currently co-ordinates anti-trafficking measures for all forms of THB. It also collects data from all relevant governmental actors and publishes a status report on THB.

22. The members of the Inter-ministerial Working Group, all with a specific role in combating THB and supporting its victims, are representatives of:

- the Department of Gender Equality
- the Ministry of Justice
- the Ministry of Refugees, Immigration and Integration Affairs
- the Ministry of Social Affairs
- the Ministry of Foreign Affairs
- the Ministry of Employment
- the Ministry of Taxation
- the Ministry of the Interior and Health.

23. The above-mentioned permanent members of the Inter-ministerial Working Group can invite other governmental actors to participate in its meetings. Both the Immigration Service (under the Ministry of Refugees, Immigration and Integration) and the Danish Centre against Human Trafficking participate in all meetings. The Inter-ministerial Working Group meets four to five times a year and can also convene on an ad hoc basis. The Department of Gender Equality chairs the Working Group and provides its secretariat, including the planning of meetings and their follow-up. It is also responsible for the overall monitoring of implementation of the NAP and administration of the allocated funding.

b. Danish Centre against Human Trafficking

24. The Danish Centre against Human Trafficking (CMM) was set up in September 2007, under the second NAP, in order to ensure co-ordination and co-operation among relevant actors working to combat THB (NGOs, police, the Danish Immigration Service, etc.). The CMM is placed under the National Board of Social Services and reports to the Department of Gender Equality.

25. The CMM has three main objectives: to develop and improve the social assistance offered to victims of trafficking; to co-ordinate collaboration between social organisations and other public authorities; and to collect and disseminate information in the field of THB. In addition, the CMM is involved in the identification of victims of trafficking residing legally in Denmark (see section III.3.a).

26. The CMM receives 18.5 million DKK (approximately 2.48 million Euros) per year from the State budget and employs a co-ordinator, four consultants and a part-time secretary. External consultants are contracted on a short-term basis and contracts are also signed with social organisations/NGOs, such as Reden/The Nest International, Pro Vest and the Danish Red Cross, in order to conduct outreach work, run shelters and information centres, etc. (see paragraph 36). The CMM publishes annual reports on THB in Denmark, as well as quarterly statistics on victims of trafficking (see paragraphs 74 and 75).

c. Danish Immigration Service

27. The Danish Immigration Service is a directorate under the Ministry of Refugee, Immigration and Integration Affairs. It is responsible for the implementation of the Aliens Act, including the processing of applications for residence permits and asylum.

28. As the Aliens Act contains specific rules and provisions regarding THB, the Danish Immigration Service plays a very important role in the identification of victims of trafficking among foreign nationals who are illegally present in Denmark (both adults and children). The Immigration Service is responsible for granting the status of a victim of trafficking to such persons as well as to asylum seekers (see paragraphs 111 and 120).

29. In March 2008, the Danish Immigration Service signed a contract with the International Organisation for Migration (IOM) to fund the assisted voluntary return of victims of trafficking, including reintegration plans in the country of origin (see paragraphs 176 and 177).

d. National and regional referral groups

30. A system of national and regional referral groups has been devised by the CMM, in order to create a forum of co-operation and dialogue between governmental and non-governmental organisations. The aim of these referral groups is to ensure that all actors involved in anti-trafficking efforts are linked to the implementation of the NAP. The national referral group meets four times a year. Its main aim is to exchange information, co-ordinate actions and alert partners about cases of THB. It is chaired by the CMM's co-ordinator and includes as members:

- the National Board of Social Services
- the Department of Gender Equality
- the CMM
- the National Police
- the Danish Immigration Service
- the Prosecution Service
- the Danish Red Cross
- the IOM office in Copenhagen
- the Danish Tax and Customs Administration
- the Danish Institute for Human Rights
- a defence lawyer
- the trade union 3F
- representatives from the regional referral groups (including from the Danish Prostitution Centre, local police, the NGO ProVest and the City of Copenhagen).

31. There are also six regional referral groups active throughout the country and ensuring the involvement of local actors. These regional referral groups meet three to four times a year and exchange information, organise awareness raising and provide training. Seven NGOs[13] participate in the regional referral groups.

e. Police

32. As part of the 2006 National Police Strategy, all police officers are to receive training on specific guidelines and indicators related to THB so that they can react appropriately when encountering cases of THB (see paragraph 67). Local police officers are provided with "action cards" with information on how to proceed in case of THB for the purpose of sexual exploitation.

33. The second NAP referred to the need for the National Centre for Investigations (NEC) of the Danish National Police to carry out systematic monitoring of THB. Police districts are required to report to the NEC all information that can be significant in the fight against THB so that THB-related investigations can be conducted in a proactive way, without waiting for a complaint. Further, the second NAP stressed the importance of close collaboration between relevant actors, including the need to disclose to the police information received by social organisations, which may be done anonymously and with due regard to the rules of confidentiality. In 2008, a special anti-trafficking unit was established within the Copenhagen Police; it has been mainly involved in cases of women trafficked for the purpose of sexual exploitation.

34. The Danish National Police manages a national database with intelligence information on investigations and operations, which includes THB cases. Since 2007, the Danish National Police has published annual reports with data concerning persons charged, prosecuted and convicted in THB-related cases (see paragraph 74).

35. Further, a number of Danish police officers are stationed in selected countries as "liaison officers" engaged in investigations into cross-border crimes such as THB, drug trafficking and illegal immigration.

f. NGOs

36. NGOs play an important role in assisting victims of trafficking and raising awareness about THB. They carry out education and training activities, often in co-operation with the CMM, the Police and governmental departments. NGOs are important partners in the implementation of the NAPs, even if they are not members of the Inter-ministerial Working Group. As noted in paragraph 31, several NGOs participate in the referral groups. Some NGOs take part in the identification process and have contracts with the CMM for the provision of accommodation and other assistance to victims of trafficking (see sections III.3.a, b and e).

[13] The Red Cross, ProVest, Reden International/The Nest International, Reden/The Nest, Gadejuristen/The Street Lawyers, Hope Now and LOKK.

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

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

37. 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"[14].

38. THB constitutes an offence to the dignity and fundamental freedoms of the human being and thus a grave violation of human rights. GRETA emphasises the obligations of States to respect, fulfil and protect human rights, including by ensuring compliance by non-State actors, in accordance with the duty of due diligence. The human rights-based approach entails that a State that fails to fulfil these obligations may, for instance, be held accountable for violations of the European Convention on Human Rights. This has been confirmed by the European Court of Human Rights (ECHR) in its judgment in the case of *Rantsev v. Cyprus and Russia*, where the Court concluded that THB within the meaning of Article 3(a) of the Palermo Protocol and Article 4(a) of the Anti-Trafficking Convention, falls within the scope of Article 4 of the European Convention on Human Rights[15] (which prohibits slavery, servitude and forced or compulsory labour). The Court further concluded that Article 4 entails a positive obligation to protect victims or potential victims, as well as a procedural obligation to investigate trafficking.

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

40. GRETA wishes to stress the need for States to also address THB as a form of violence against women and to take account of gender-specific types of exploitation, as well as the particular situation of child victims of trafficking, in line with the relevant international legal instruments[16].

41. As far as the situation in Denmark is concerned, the Danish authorities have indicated that Article 262(a)(1) of the CC constitutes an appropriate legal framework for fulfilling the duty to penalise THB as a crime which threatens the human dignity and fundamental freedom of its victims and thus violates Article 4 of the European Convention on Human Rights.

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[14] 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

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

[16] 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.

42. The second NAP stated that "respect for human rights and support for democratisation are the fundamental framework elements for Denmark's contribution to combating trafficking in human beings" in bilateral co-operation with third countries to prevent THB and protect its victims. The NAP aimed to address some of the root causes of THB in third countries, stressing that violations of human rights, poor governance, violence and discrimination have the worst effect on the poor and the most vulnerable groups, such as women and children, which are also the groups most at risk to become victims of trafficking. The third NAP (2011-2014) stresses that THB is a serious form of crime and an unacceptable violation of the human rights of victims, and that society as a whole has the obligation to combat all forms of exploitation of people in a vulnerable situation.

43. 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 Danish authorities in these fields.

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

i. Definition of "trafficking in human beings"

44. In accordance with Article 4(a) of the Convention, trafficking in human beings includes three components: an action ("the recruitment, transportation, transfer, harbouring or receipt of persons"); the use of certain means ("threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person"); and the purpose of exploitation ("at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs"). In the case of children, pursuant to Article 4(c) of the Convention, it is immaterial whether the means referred to above have been used.

45. Under Danish law, the definition of THB is contained in Article 262(a)(1) of the CC which reads: "A person who recruits, transports, transfers, houses or subsequently receives another person in a situation involving or having involved the use of:

1) unlawful coercion as set out in section 260 of this Act;
2) deprivation of liberty as set out in section 261 of this Act;
3) threats as set out in section 266 of this Act;
4) unlawful creation, corroboration or exploitation of a delusion; or
5) another form of improper conduct;

for the purpose of exploiting that other person through indecent sexual activity, forced labour, slavery or slavery like conditions or removal of organs, commits the offence of human trafficking and shall be liable to imprisonment for any term not exceeding eight years".

46. The second NAP states that Article 262(a) of the CC comprises all forms of THB as defined in the UN Palermo Protocol and the EU Framework Decision of 2002. The Danish authorities have indicated to GRETA that Article 262(a) of the CC covers all forms of THB: national and transnational, whether or not linked to organised crime.

47. GRETA notes that Article 262(a)(1) of the CC includes all the actions referred to in the Council of Europe Anti-Trafficking Convention.

48. The means of "giving or receiving of payments or benefits to achieve the consent of a person having control over another person", included in the Convention's definition of THB, is contained in Article 262(a)(2)(2) of the CC. The penalty envisaged in this case is the same as the one provided for in Article 262(a)(1) (i.e. imprisonment for a maximum term of eight years).

49. The Convention includes two means which are not explicitly mentioned in Article 262(a)(1) of the CC: "fraud" and "abuse of power or of a position of vulnerability". The last means listed in the definition of THB in Article 262(a)(1) of the CC is the generic "another form of improper conduct", which could be interpreted to cover both "fraud" and "abuse of power or of a position of vulnerability". The preparatory works of the CC indicate that the interpretation of "another form of improper conduct" will depend on the individual case. Denmark's Supreme Court has referred to this provision in a judgment of 2009[17] concerning four women victims of trafficking who had been recruited in the Czech Republic, came from socially disadvantaged backgrounds and were in a vulnerable situation as they neither spoke nor understood Danish. The Court followed the prosecution's argument that "another form of improper conduct" had been included as a means in the definition of the offence of THB in order to ensure Denmark's fulfilment of international obligations and applied this provision as relevant to the case. The Supreme Court ruled that the defendants had abused their authority in relation to the women's vulnerable position by inducing them into prostitution and keeping all their earnings.

50. The offence of fraud is defined in Article 279 of the CC[18]. However, Article 262 (a)(1)(4) of the CC on the "unlawful creation, corroboration or exploitation of a delusion" is broader than the wording of Article 279 on fraud. Consequently, Article 262(a)(1)(4) may cover fraud but it is not limited to fraud as defined in Article 279. GRETA takes note that there has been no case law on this issue.

51. The forms of "exploitation" under Article 262(a)(1) refer to "indecent sexual activity" rather than "exploitation of the prostitution of others or other forms of sexual exploitation", which are some of the minimum elements of exploitation required by the Convention. According to the preparatory works of the CC, this provision should be interpreted in accordance with Article 228(1) of the CC (on procuring). The preparatory works also state that the scope of "sexual exploitation" as regards the Palermo Protocol is covered in Danish law by Articles 228(1) and 229(1) of the CC on pimping and procuring, respectively, which extend the meaning of "sexual exploitation" not just to the exploitation of prostitution but also to the production of pornography.

52. Article 262(a)(2)(1) of the CC criminalises the trafficking of children. This provision contains only the action and the purpose of exploitation, irrespective of the means used, which is in line with the Convention's definition of trafficking in children.

53. Pursuant to Article 4(b) of the Convention, the consent of the victim of trafficking is irrelevant where any of the means set forth in the definition of THB have been used. Although this important element of the Convention is not reflected in Article 262(a) of the CC, the Danish authorities have reported that a person (adult or child) cannot give a valid consent to being a victim of trafficking.

54. **GRETA considers that the Danish authorities should ensure that the principle according to which the consent of the victim is irrelevant when one of the means listed in the Convention has been used applies in all dimensions of the identification, protection and assistance of victims of trafficking as well as in the context of criminal proceedings.**

ii. Definition of "victim of THB"

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

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17 Judgment of 23 March 2009 (U 2009.1439 H).

18 "Any person who, for the purpose of obtaining for himself or others an unlawful gain by unlawfully bringing about, corroborating or exploiting a delusion, induces any person to do an act which involves the loss of property for the deceived person or for others affected by the act or omission, shall be guilty of fraud."

56. The Danish authorities have reported that the country's legislation does not contain an explicit definition of a victim of trafficking, but that any person subject to THB as defined in the CC is generally considered to be a victim of trafficking. While victims of trafficking are defined from a criminal law perspective, there are no legal provisions guaranteeing their rights to assistance, protection and redress, other than as victims of crime.

57. The question of the definition of victim of trafficking will be further discussed in the sections of this report dealing with the identification of victims and assistance measures, along with the related proposals made by GRETA.

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

i. Comprehensive approach and co-ordination

58. 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-sectorial, 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).

59. The second NAP included new elements compared to the first NAP, such as an explicit aim to cover all victims of trafficking as well as to assist victims throughout the country. However, in practice, the second NAP continued to focus on women trafficked for sexual exploitation inasmuch as THB for labour exploitation was not identified as a problem.

60. The evaluation of the second NAP concluded that a targeted and effective response to the trafficking of women had been achieved through co-operation between the CMM, the Immigration service and the Police. The evaluation recommended that future responses to THB in other areas should draw on the effective response in relation to women trafficked for prostitution and the productive co-operation between actors inside and outside Denmark in this respect.

61. The third NAP (2011-2014) strengthens action in relation to trafficking in children and trafficking for the purpose of labour exploitation. As the number of identified victims from these categories is low, the main focus is placed on developing identification measures. This will be done in particular through outreach work, training of social workers who are in contact with vulnerable children as well as new groups of actors relevant to trafficking for labour exploitation, reactivation of the working group on children and the setting up of a working group with a focus on trafficking for the purpose of labour exploitation.

62. GRETA wishes to stress that while efforts to prevent and combat the trafficking of women for the purpose of sexual exploitation should be continued, the prevention, protection and prosecution policies in Denmark should adequately address all victims of trafficking for the purpose of all types of exploitation. GRETA therefore welcomes the extended scope of the new NAP.

63. As far as co-ordination is concerned, the Inter-Ministerial Working Group on Human Trafficking provides overall policy co-ordination of governmental action against THB, while the CMM co-ordinates cross-sectoral efforts against THB, involving NGOs. The CMM has participated in all the meetings of the Inter-Ministerial Working Group since the beginning of 2010. The independent evaluation of the second NAP concluded that its implementation had been characterised by a common, co-ordinated and dedicated input from many actors, including NGOs and the police.

64. Although NGOs are not members of the Inter-Ministerial Working Group on Human Trafficking, a consultation meeting with them was held in November 2010, in the context of the preparation of the third NAP (2011-2014). An informal network of NGOs active in the field of action to combat THB submitted a number of recommendations for the new NAP. That said, NGOs have highlighted the need for more transparency and better communication on the part of the governmental bodies responsible for action against THB, in order to build a genuine partnership with civil society and give full recognition to their efforts. GRETA considers that given the experience of NGOs in identifying and assisting victims of trafficking and their role as implementing partners of the NAP, their views should be duly taken into account. The new NAP includes a list of NGOs which are considered as co-operation partners for its implementation; however, it does not define specifically the extent of co-operation and therefore the implementation of the NAP will show to what degree civil society is included in the country's anti-trafficking work.

65. GRETA welcomes the steps taken by the Danish authorities to adopt a comprehensive approach to action against THB, as well as the co-ordination and co-operation between relevant governmental and non-governmental actors, ensured by the CMM. That said, **GRETA considers that the Danish authorities should step up their efforts to detect potential child victims of trafficking and victims of trafficking for the purpose of labour exploitation**.

66. **Further, GRETA invites the Danish authorities to:**

- **Involve representatives of NGOs in the meetings of the Inter-Ministerial Working Group on Human Trafficking and associate NGOs in policy development;**

- **further improve the co-operation and co-ordination between governmental departments, the CMM, the Police, NGOs and other members of civil society active in the field of action against THB and the protection of victims.**

ii. Training of relevant professionals

67. According to information provided by the Danish authorities, in 2007 the National Police, together with the CMM, started training first-year students at the Police Academy on THB issues. The National Police also provides training on THB issues to third-year students at the Police Academy. In addition, training on THB issues is provided to experienced police officers and all police officers dealing with the investigation of THB cases are obliged to participate in such training. Furthermore, one to two seminars per year are organised where all key persons in local police districts are invited for updates on THB and to share good practices. Upon request from local police districts, the National Police can also organise seminars on THB for police officers involved in border control and patrolling the streets. In addition, since 2011, members of the Danish Flying Squad will be attached as ad hoc Liaison Officers to the Danish desk at Europol for a period of two years in order to be trained by the three full-time Danish liaison officers stationed at Europol's headquarters.

68. GRETA was also informed that the CMM, together with the Director of Public Prosecutions, organised training for judges at the Judicial Academy. Some 30 lawyers from high and district courts have participated in such training. Further, the Judicial Training Centre provides training to judges and practising lawyers on THB issues. GRETA takes note that NGOs are also participating in the training of legal professionals. In addition, judges and lawyers receive training in handling injured parties, including victims of trafficking. The treatment of injured parties and witnesses in general is part of the basic training that all public prosecutors receive during the first three years of appointment. The third NAP (2011-2014) includes an increased focus on the training of judges, prosecutors and defence lawyers.

69. The Danish authorities have indicated that every year the Ministry of Foreign Affairs (MFA), in co-operation with the National Police, organises a training course on THB for consuls before they are posted abroad. The aim of this training is to ensure that consular staff are able to identify possible victims of trafficking who seek entry into Denmark. The MFA has not carried out a review of the effect of these training courses, but the training is regularly adapted, in co-operation with the National Police, in relation to external conditions. The MFA considers that the consuls' knowledge of and attention to the issue of THB is satisfactory, as illustrated by frequent reports from Danish embassies regarding suspicion of THB or other criminal offences committed in connection with visa applications.

70. With regard to child trafficking, the Danish authorities have indicated that the CMM has organised training seminars for relevant professionals from municipalities, NGOs, the Red Cross, the Police (at national and local level), and the Prison and Probation Service, covering issues such as identification, protection and relevant procedures.

71. GRETA welcomes the steps taken by the Danish authorities to train relevant professionals, in particular law enforcement officials, prosecutors and members of the judiciary, and the fact that training remains a priority in the third NAP (2011-2014).

72. **GRETA considers that the Danish authorities should ensure that all relevant professionals are trained periodically, throughout their careers, in the identification of victims of trafficking, including with a view to improving the identification of victims of THB for labour exploitation. Such training should be designed taking full account of gender and child-specific aspects and be provided to law enforcement officers, border guards, immigration officials, staff working in refugee reception centres and detention centres for irregular migrants, staff working in establishments for juveniles and minors run by the social services, diplomatic and consular staff, social welfare officers and labour inspectors.**

73. **Further, GRETA invites the Danish authorities to step up the training provided to legal and judicial staff on the issue of THB and the applicable legislation and case law, including the need to apply a human rights-based approach to action against THB on the basis of the Council of Europe Anti-Trafficking Convention and the case-law of the European Court on Human Rights.**

iii. Data collection and research

74. The main actors collecting data on THB in Denmark are the Department of Gender Equality, the Inter-Ministerial Working Group on Human Trafficking, the CMM, the Danish National Police and the Danish Immigration Service. The Department of Gender Equality in responsible for collecting data from all relevant actors which is presented in annual status reports on the implementation of the NAP. Since 2007, the Danish National Police has published annual reports containing information on the number of charges and convictions regarding THB. The Immigration Service collects data on foreigners without legal stay in Denmark and asylum seekers identified as victims of trafficking. The data collected includes name, sex, date of birth, citizenship, date of entry and departure, and type of exploitation.

75. The GRETA delegation was informed that the CMM uses 11 different forms for the collection of data and information related to THB, but that the new NAP for 2011-2014 will review this situation to streamline the number of forms used. The CMM, in collaboration with the Red Cross, collects and publishes data on child victims of trafficking.

76. Research carried out in the framework of a regional project on co-operation in preventing and combating THB in the Baltic Sea region, run by the United Nations Organisation on Drugs and Crime (UNODC) and the Council of the Baltic Sea States (CBSS)[19], brought to light shortcomings in collecting reliable data, including in Denmark. According to the CBSS report "*Hard Data - Data Collection Mechanisms on Human Trafficking in the Baltic Sea Region*", there is in general a lack of comparable and comprehensive data, resulting in large uncertainties about the scope of THB. The report highlights the gap between the operational actors who collect data and the policy actors who use it, and recommends that a minimum set of indicators be introduced. Concerning Denmark, the report indicates that the information gathered by the CMM concerning THB, includes the type of recruitment, national borders crossed, use of fraudulent document, and type and country of exploitation, but no data is collected on the means of control over the victim. Further, according to the report, no data on the total number of THB-related investigations started and resulting in convictions is collected. The report also states that no information is collected on the number of victims filing claim for compensation nor on the number of claims honoured or denied.

77. As regards research on THB, in 2010 the CMM conducted a study on *au pairs* and THB in Denmark. The study, which is based on a sample of 27 *au pairs* working in Denmark, found no evidence of THB, but rather of situations in which people in vulnerable positions can be exploited and in fact often are[20].

78. Further, the CMM is currently carrying out research on THB for the purpose of labour exploitation in the agriculture and cleaning sectors in Denmark. **GRETA would like to receive information on the outcome of this research,** expected to be published in September 2011**.**

79. **GRETA considers that, for the purpose of preparing, monitoring and evaluating anti-trafficking policies, the Danish authorities should develop and maintain a comprehensive and coherent statistical system on trafficking in human beings by compiling reliable statistical information from all main actors and allowing disaggregation (concerning sex, age, type of exploitation, country of origin and/or destination, etc.). This should be accompanied by all the necessary measures to respect the right of data subjects to personal data protection.**

80. **In addition, GRETA invites the Danish authorities to continue conducting and supporting research on THB-related issues, in particular in areas which have received little attention in the past, such as trafficking in children and trafficking for the purpose of labour exploitation. Such research is an important source of information for future policy measures in the field of action against THB.**

iv. International co-operation

81. 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).

82. Proceeding from the recognition that THB is a cross-border problem requiring cross-border co-operation, the second NAP included measures on international co-operation focused on preventing THB and aimed at creating partnerships through joint programmes with third countries, especially through Danish development aid to countries in Asia and Africa. The second NAP also had the specific objective of putting the social consequences of THB on the agenda of various international fora, including the Nordic Council of Ministers and the Baltic Sea region.

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19 "*Human Trafficking in the Baltic Sea Region: State and Civil Society Cooperation on Victims' Assistance and Protection*", UNODC, 2010.

20 *"Au pair and trafficked? - Recruitment, residence in Denmark and dreams for the future"*, CMM, 2010.

83. As part of the Danish Government's Neighbourhood Programme[21], the Ministry of Foreign Affairs implements actions against THB in Belarus, Moldova and Ukraine. The Programme aims at supporting national agencies, international organisations and NGOs to combat THB, in particular through preventive measures and support to victims. The IOM is an implementing partner of this programme as regards the aim to strengthen national strategies to combat THB, including prevention, assistance to victims and exchange of information and experiences at the regional level. Further, according to the Danish authorities, Denmark ran development aid projects in third countries such as Kenya, Nepal, India and Bangladesh, and projects linked to migration from third countries, which include issues related to combating THB. These projects aimed, *inter alia* at enhancing knowledge and awareness about human trafficking and gender-related violence (Nepal), supporting victims and potential victims of trafficking (Bangladesh), reducing child trafficking for the purpose of sexual exploitation (Kenya) and preventing and rehabilitating child victims of trafficking (India).

84. In addition, the Ministry of Foreign Affairs has recently granted 5 million DKK to the UN Population Fund for receiving and supporting women victims of trafficking, in particular from Nigeria, who are to be returned to their home country.

85. The previously mentioned evaluation of the second NAP recognised that a particular contribution had been made in Belarus, Moldova and Ukraine to develop their national referral mechanisms, which resulted in rehabilitation and reintegration support being provided to 729 people in the three countries in 2009. However, the evaluation concluded that the Danish authorities should consider "whether more could be done to combat THB directly through Denmark's development assistance"[22].

86. As regards international co-operation in the area of police investigations on THB, the Danish National Police co-operates with international organisations (Interpol, Europol, CBSS) and in the framework of international agreements (Schengen, the Nordic Police and Customs Co-operation, and the Nordic Police Co-operation Agreement). The Danish National Police has also carried out joint investigations with police forces of other countries (e.g. on a trafficking case leading to arrests and extraditions from Romania to Denmark, exchanges of information with the police of Thailand). A visit to Romania was organised in May 2011 to discuss future co-operation against THB with the Romanian police. That said, Denmark has not participated in Joint Investigation Teams (JITs) with other EU Member States on cases of THB.

87. Further, Denmark co-operates with other States in the Baltic Sea region through the Council of the Baltic Sea States (CBSS). In 2006, the Heads of Government of the 11 States forming the CBSS[23] decided to create a Task Force against Trafficking in Human Beings (TF-THB). The Task Force is composed of national experts from every member country and aims to counteract THB in the Baltic Sea region and its vicinity through preventive and protective activities, including exchange of information and best practices and collaborative projects.

88. In 2010, the TF-THB and UNODC carried out a regional project to foster co-operation between NGOs and law enforcement agencies in preventing and combating THB in, from and to the Baltic Sea region (see paragraph 76). Denmark participated in this project, which included research on the provision of assistance and protection to victims of trafficking through co-operation among State actors and civil society organisations.

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21 The Neighbourhood Programme is Denmark's bilateral development programme for EU's neighbouring countries to the East and Southeast. This programme supports Denmark's foreign policy priority of promoting a peaceful and stable Europe in progress and prosperity and is currently in its second phase, from 2008-2012, with a budget of DKK 1 billion.

22 Evaluation of the Danish Action Plan for combating of trafficking in human beings, 2007-2010 (summary in English) by COWI (Consultancy within Engineering, Environmental Science and Economics), 2010.

23 Denmark, Estonia, Finland, Germany, Iceland, Latvia, Lithuania, Norway, Poland, the Russian Fed. and Sweden.

89. Despite the aim of the second NAP to ensure a properly managed return home (with the involvement of the IOM) and to create closer contacts with NGOs and social authorities in countries of origin, co-operation with third countries in relation to the return and reintegration of victims of trafficking from Denmark is an area where further improvements are needed (see section III.3.f). GRETA is concerned about information received from NGOs according to which there is a lack of contact with countries of origin of victims of trafficking, including children, who are returned without a proper risk assessment and face the risk of being re-trafficked.

90. **GRETA considers that the Danish authorities should explore further possibilities for international co-operation with governmental and non-governmental actors in the fields of protecting and assisting victims of trafficking, including the preparation of their return and reintegration in their countries of origin.**

91. **Further, GRETA invites the Danish authorities to continue developing the aspect of international co-operation with a view to preventing and combating THB.**

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

92. 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. Measures to raise awareness and measures to discourage demand

93. In accordance with the Convention, measures to discourage demand for the services of victims of trafficking, especially women and children, should be understood as a positive obligation on Parties to adopt and reinforce such measures as regards THB for the purpose of any form of exploitation (see paragraph 108 of the Explanatory Report of the Convention). As it is stated in the Recommended Principles and Guidelines on Human Rights and Human Trafficking, strategies aimed at preventing THB shall address demand as a root cause of trafficking[24].

94. Over the years, awareness-raising campaigns against THB for the sexual exploitation of women, targeted at potential clients, have been carried out by the Department of Gender Equality, the CMM and associated NGOs. In 2006, the information and debate campaign "You have a choice – She doesn't" was launched by the Ministry for Gender Equality in newspapers, on television and in cinemas. In the same year, a web-based campaign on prostitution and sexual exploitation targeted school children at the end of primary school.

95. In 2008, the campaign "Who is paying the price?" aimed at reducing demand for commercial sex among young men. The campaign to reduce demand for sexual services among potential customers continued in 2009. According to the Danish authorities, the assessment of this campaign showed that the attitude towards prostitution has not changed significantly. As the objective of the campaign was to reduce the demand for sexual services in general, there has been no assessment of the campaign's impact on combating THB in particular.

96. Awareness-raising campaigns are also run and funded by NGOs. For example, the NGO Hope Now has produced awareness-raising documentaries on THB issues, and in 2007-2008 it ran a campaign based around a 30-second video on trafficked women.

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

97. The Danish authorities have indicated that a major national campaign is planned before the end of 2011 to increase the awareness of clients of prostitution concerning THB. The campaign, named "*Ud med bagmændene*" ("Let's get rid of the traffickers"), has a budget of 1 million DKK. It will focus on traffickers and how clients support them by buying sexual services from women trafficked for prostitution. The campaign will use unconventional media choices to create interest in the press and the public. The aim of the campaign is to kick start awareness, reflection and debate among young men and the public in general about trafficking in women for prostitution. The intention is that, on a long-term basis, this will help reduce demand and thereby the scope of trafficking for forced prostitution in Denmark.

98. The Danish authorities have reported that no campaigns or programmes designed to alert potential national victims of trafficking have been carried out, Denmark being primarily a country of destination and transit. Similarly, the authorities consider that no measures for preventing national THB are needed. That said, the Danish authorities have indicated that in May 2011, the CMM detected a case of national trafficking of a foreign victim of trafficking. According to the authorities, the CMM is now identifying sectors where national trafficking of foreign victims is likely to occur and as a first step it is taking measures to alert and train staff in relevant positions.

99. Denmark funds and manages projects to prevent THB in certain countries of origin, such as the above-mentioned programme against THB in Belarus, Moldova and Ukraine (see paragraph 83), which include activities aimed at reinforcing prevention capacity among vulnerable groups, as well as strengthening international and national co-operation in responding to THB. There are challenges related to the development of similar preventive actions in African countries such as Nigeria, the main country of origin of women trafficked for sexual exploitation in Denmark. In this respect, social workers from CMM visited Nigeria in May 2011 in order to study the conditions of returned women and how to prevent re-trafficking (see paragraph 181).

100. GRETA welcomes the efforts of the Danish authorities to raise awareness in countries of origin, in order to prevent THB for the purpose of sexual exploitation. **GRETA would like to receive information on the assessment of the impact of the measures taken.**

101. GRETA notes that measures to discourage demand and awareness-raising efforts have so far focused exclusively on the prevention of trafficking in women for the purpose of sexual exploitation. However, GRETA must stress the need to also develop prevention measures addressing other types of exploitation and all victims of trafficking.

102. **GRETA considers that the Danish authorities should adopt measures to raise awareness of THB for the purpose of labour exploitation and discourage demand for the services of trafficked persons, in particular in the agriculture, construction and cleaning sectors.**

103. **Further, GRETA invites the Danish authorities to:**

- **explore the possibility of participating in awareness-raising activities in countries of origin of victims of trafficking, such as Nigeria, Thailand and Romania, where the majority of the women trafficked for sexual exploitation in Denmark originate from;**
- **plan future information and awareness-raising campaigns to prevent THB with the involvement of civil society, on the basis of previous research and impact assessment.**

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

104. The Task Force against THB of the Council of Baltic Sea States (TF-THB) has recently produced a handbook for diplomatic and consular staff on their role in assisting and protecting victims of trafficking[25]. The handbook includes indicators to be considered when processing visa applications, as well as principles to be followed during referral procedures. It also contains special guidelines for identifying and assisting children victims of trafficking. Further, it includes a section on diplomats and domestic servitude. From 2008 to 2010, the TF-THB together with the IOM Mission in Moldova carried out a two-year training programme for diplomatic and consular personnel to provide them with information and tools to identify and advise vulnerable persons and assist victims of trafficking, in co-operation with the police, social services, NGOs, immigration authorities and other relevant actors. As part of this training, 12 seminars were conducted in the CBSS Member States, including one in Copenhagen, with training provided to some 550 diplomatic and consular staff from more than 90 countries that are origin, destination or transit countries for victims of trafficking in the Baltic Sea region.

105. The Danish authorities have reported that there are only a few places where border control is still carried out in Denmark (the Faroe Islands and Greenland, which are neither part of the EU nor of the Schengen Area) and that the strategy of the Danish National Police is to provide all police officers with knowledge of indicators of THB so that they know how to act when they encounter cases of trafficking. The Nordic Passport Union allows citizens of Denmark (including the Faroe Islands), Sweden, Norway, Finland and Iceland to travel and reside in other Nordic countries without a passport or a residence permit. Since March 2001, the Schengen rules are applied to the five countries of the Nordic Passport Union, which has resulted in the removal of border checkpoints within the Schengen zone. The Nordic Police and Customs Co-operation, established in 1984 and originally aimed at combating drug-related crime, now deals with all types of crime including THB and co-operation regarding visa applications.

106. The previously mentioned evaluation of the second NAP stressed the positive aspects of Nordic co-operation and the results achieved concerning visa screening in Thailand[26], in collaboration with the Danish Ministry of Foreign Affairs, which resulted in two convictions for THB.

107. **GRETA considers that the Danish authorities should take steps to provide information to foreign nationals planning to travel to Denmark to alert them about the risks of THB for sexual and labour exploitation, as well as inform them of their rights.**

108. **Further, GRETA encourages the Danish authorities to disseminate widely the "Handbook for diplomatic and consular personnel on how to assist and protect victims of human trafficking", in order to identify and address potential THB-related risks during the visa application system.**

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25 *Handbook for diplomatic and consular personnel on how to assist and protect victims of human trafficking*, Council of the Baltic Sea States Secretariat, Stockholm, 2011.

26 The second NAP states that "the Thai authorities have given their commitment, to the greatest extent possible, that they will assist the Danish police in the implementation of an intensified intervention against prostitution kingpins with a connection to Thailand" (see footnote 10, p.15).

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

a. Identification of victims of trafficking in human beings

109. 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.

110. In Denmark, there are two procedures in place for granting the status of a victim of trafficking, depending on whether the person concerned is legally or illegally present on the country's territory. In the first case, the CMM grants this status, on the basis of information received from social workers and/or NGOs. In the second case, the Danish Immigration Service is responsible for the identification of victims of trafficking.

111. In the case of potential adult victims of trafficking residing illegally in Denmark, the Danish Immigration Service should perform an identification within 72 hours, i.e. the maximum period for which foreign nationals detained under the provisions of the Aliens Act can be held under the authority of the police in a detention centre (see Articles 36 and 37 of the Aliens Act). As the majority of potential victims of trafficking in Denmark are foreign nationals trafficked for the purpose of sexual exploitation and apprehended by the police for illegal presence, the provisions of the Aliens Act apply to them and this explains the limited time available to carry out the identification. If a foreign national is illegally present in Denmark and is to be deported, he/she can be held in a detention centre until the deportation takes place. This practice is contrary to the United Nations Recommended Principles and Guidelines on Human Rights and Human Trafficking[27]. The decision on whether a person should be granted or not the status of a victim of trafficking is critical, as it results in return, deportation or access to a 30-day "delayed departure" during which social support is available (see section III.3.c).

112. The Danish authorities set up a hotline telephone number in 2002, in order to facilitate the reporting of possible cases of THB, to provide counsel to potential victims and to refer victims to relevant organisations which can assist them. Callers to the hotline can remain anonymous and the information they give is subject to confidentiality rules. According to the Danish authorities, the overall experience is that potential victims of trafficking for the purpose of sexual exploitation call social workers directly or get in contact with social assistance through outreach work, counselling centres, etc. The hotline is therefore mostly used by professionals who are in contact with potential victims of trafficking needing counselling, social assistance and/or identification. For instance, in 2010 the total number of calls to the hotline was 193, out of which 115 were from the police, including 68 calls related to arrests of women who could be potential victims of trafficking and for which the CMM social workers had to confirm or identify trafficking aspects. A further 23 calls were made from the police to inform the CMM about upcoming raids targeting prostitution areas which afterwards would require the social assistance from CMM**.**

[27] See Guideline 2 ("Identification of trafficked persons and traffickers") of the United Nations Recommended Principles and Guidelines on Human Rights and Human Trafficking, in 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.

113. Police officers are frequently the first to come into contact with potential victims of trafficking. The police uses the hotline operated by the CMM to alert social workers about a new case and ensure that they meet the potential victim. In addition, the police informs the CMM about planned raids and routine visits to premises where sexual services are provided so that the CMM and/or NGOs can be present, given that it can be difficult to determine from the outset whether a case regards trafficking or procuring. NGOs are also expected to report to the CMM when they come across a potential victim of trafficking. However, the Police and the Immigration Service do not always inform the CMM regarding cases of THB.

114. According to the CMM and NGOs, most interviews of potential victims of trafficking take place in police offices or detention centres. According to the Danish authorities, the experience of the police shows that if a foreign national illegally present in Denmark is not detained, he/she will disappear immediately, preventing the Immigration Service from making an assessment of the person's status and the police from ensuring the person's departure if he/she is not a victim of trafficking. However, this opinion is not shared by the CMM and NGOs, and indeed in some cases police officers have placed potential victims of trafficking in crisis centres rather than in detention facilities, an option provided for in the Aliens Act, such as the case of a police district in Western Jutland where potential victims of trafficking were placed in a shelter pending their identification and they did not leave but rather co-operated with the authorities. The Danish authorities have indicated that as part of the third NAP (2011-2014), the option of placing potential victims of trafficking in women's shelters instead of in detention centres will be included in the police guidelines on trafficking in human beings, in order to ensure knowledge of this option throughout the Danish police force. The guidelines will also stress that a foreign national illegally present in the country and identified as a victim of trafficking is to be released from detention and sent to a shelter. **GRETA would like to receive information on the options included in the police guidelines concerning accommodation for men victims of trafficking illegally present in the country.**

115. The Immigration Service performs the identification of victims of trafficking on the basis of information typically received from the police and the CMM[28]. The decisions of the Immigration Service concerning the identification of victims of trafficking are final and cannot be appealed, but being administrative decisions they can be contested in court, in accordance with the Danish Constitution. It is a general principle in Danish law that an administrative decision can be reconsidered if relevant new information appears, which may lead to new decisions regarding the identification of victims of trafficking.

116. If the views of the police and the CMM differ as to whether a person should be identified as a victim of trafficking, the decision of the Immigration Services prevails over both. According to reports made available to GRETA, since 2007 the Immigration Service has not followed the advice of the CMM in some 10-15 identification cases, mostly because of the restrictive interpretation of the expression "trafficked to Denmark" (see paragraphs 125 and 126). According to information provided by the CMM, in 2010 there were seven cases in which the Immigration Service did not confirm the identification of victims of trafficking performed by the CMM.

117. The second NAP reflected on the difficulties encountered to assess whether foreign prostitutes had been trafficked and called for joint cross-disciplinary methods and standards to be developed, so that all implementing organisations use the same methods to identify victims of trafficking. Regarding the difficult task of identifying child victims of trafficking, the NAP envisaged the development of indicators to ascertain when there is a risk that a child might have been trafficked.

[28] The identification document used by the social workers working for the CMM (Form 1a) includes personal information on the potential victim, the statement of the person concerned, direct indicators regarding THB, the grounds for assessment of the social worker, and a declaration of consent which can be signed by the potential victim to enable the CMM to receive relevant documents from the Immigration Services concerning the case. The victims interviewed by social workers must be told that the information given during the interview will be passed on to the Immigration Service for evaluating their case.

118. There are no common criteria in Danish law for granting the status of a victim of trafficking. However, the CMM has developed a "definition and identification paper" which includes indicators based on those developed by the ILO, the European Commission and Anti-Slavery International. Regarding children, the indicators used by the CMM are based on work by UNICEF and Save the Children (Italy) as well as selected indicators from the United Nations Global Initiative to Fight Human Trafficking (UN.GIFT). The aim of the CMM's definition and identification paper is to promote a common understanding and definition of THB as the identification process requires co-operation between the Police, the Immigration Service, the CMM and the individual concerned.

119. The Immigration Service has a set of internal guidelines for the identification of victims of trafficking[29]. In addition, the National Police has its own set of internal guidelines and indicators related to the identification of victims of trafficking (contained in an internal working paper of classified nature). These internal guidelines are reportedly very similar to those used by the CMM.

120. If a potential victim of trafficking applies for asylum in Denmark, the above-mentioned 72-hour limit is no longer applied and the identification process can take longer. The Immigration Service is the first instance responsible for assessing a claim for asylum and the Refugee Appeals Board is the second instance.

121. The Danish authorities have indicated that the time-limit of 72 hours is rarely a problem, as identification is possible over a longer period of time when foreign nationals with illegal stay in Denmark apply for asylum and, in any case, there is no rule according to which the Immigration Service is required to perform identification within a certain time limit. However, the evaluation of the second NAP considered the 72-hour deadline an extremely short period of time in which to gather the necessary information from a person who is likely to be highly stressed. Further, the evaluation concluded that the identification of victims of trafficking remained a challenge due to reasons restraining victims from approaching the police or social organisations. GRETA has received reports from NGOs highlighting difficulties in carrying out proper interviews with distressed potential victims of trafficking in the very limited amount of time available and often in inappropriate surroundings (e.g. a detention facility). In the opinion of many professionals met during the country visit to Denmark, the 72-hour deadline is the procedure followed in the majority of cases, and it is too short a time to perform a proper identification and decide whether to grant the status of victim of trafficking.

122. In the case of unaccompanied foreign minors seeking asylum, who are accommodated in centres run by the Danish Red Cross, the Immigration Service may be alerted about potential victims of trafficking. The CMM provides funding for a project on THB run by the Danish Red Cross, which includes a member of staff detecting potential cases of victims of trafficking amongst unaccompanied minors; some five cases per year have been detected in the last five years. However, potential victims need to be identified as such by the Immigration Service. In the meantime, child victims of trafficking stay in asylum centres for unaccompanied minors as there are no specialised shelters for them.

123. The Danish Red Cross assigns legal guardians to all unaccompanied children with illegal residence in Denmark. It is the responsibility of the legal guardians to hold the children's best interest as a primary consideration and to consult and advise them in relation to all decisions taken that may affect them. Unaccompanied children victims of trafficking get a professional personal representative (e.g. a social worker). The ultimate objective is to return them to their countries of origin if they are not granted a residence permit. Special guidelines are applied for processing asylum applications and in case they are rejected, children can be granted a residence permit in certain cases, such as if the situation in their country of origin is unsafe (but not solely on the grounds of being a victim of trafficking). Studies indicate a significant number of unaccompanied minors disappearing from reception centres (some 10% per year), which may suggest either trafficking into Denmark or the use of Denmark as a transit country, a concern raised by the Fundamental Rights Agency in its 2009 Thematic Study on Child Trafficking[30].

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29 *"Notat vedrørende udlændingelovens § 33, stk. 14 og 15 - udrejsefrist for ofre for menneskehandel (refleksionsperiode)"*, 2 February 2008.

30 Thematic Study on Child Trafficking, Olsen, B.K., Badse, K and Krusaa, N.M., Fundamental Rights Agency, 2009.

124. The Danish authorities have indicated that criminal courts can also decide whether a person is a victim of trafficking if he/she is taken before a court. However, GRETA understands that there have been cases of potential victims of trafficking not being identified before being charged, because judges do not consider identification as an issue for the court, but rather for the Immigration Service.

125. The scope of the Danish anti-trafficking action set out in the preface to the second NAP stated that "the present action plan encompasses all persons trafficked to Denmark". Many actors involved in the fight to combat THB drew GRETA's attention to the fact that this sentence has been restrictively interpreted by the Danish Immigration Service so as to include only people trafficked to Denmark directly from their country of origin. This interpretation has reportedly prevented victims of trafficking arriving in Denmark from another country, to which they were previously trafficked from being granted the status of victim of trafficking. The evaluation of the second NAP highlighted that this misunderstanding could have unforeseen consequences and concluded that the implications of the interpretation of "trafficked to Denmark" should be considered further so that all relevant actors have a common understanding of the basis on which decisions are made and in order that the security and rights of potential and identified victims of trafficking are protected.

126. According to the Danish authorities, the interpretation of the term "trafficked to Denmark" does not imply that only persons trafficked directly to Denmark from their country of origin may be identified as victims of trafficking. The Danish authorities have further explained that the interpretation of the term "trafficked to Denmark" implies that the person in question is staying in Denmark as a direct result of being a victim of trafficking and foreigners who are trafficked to Denmark from a country other than their country of origin may also be identified as victims of trafficking. The new NAP for 2011-2014 covers everyone in Denmark who arrived in the country as part of human trafficking or is still subjected to the result of human trafficking[31]. The Danish authorities have indicated that foreign nationals trafficked within Denmark can also be identified as victims of trafficking.

127. According to statistical data provided by the Danish authorities, 29 victims of trafficking were identified in 2008, and 48 in 2009. All victims identified in 2008 were foreign women trafficked for the purpose of sexual exploitation. The situation was similar in 2009 when apart from women, one man and one child were identified as victims of trafficking. As regards 2010, 52 persons were identified as victims of trafficking, including 33 persons (30 women and three men) identified by the Immigration Service and 19 women identified by the CMM (all of whom were trafficked for the purpose of sexual exploitation). Two victims of trafficking for the purpose of labour exploitation and one child victim of trafficking were identified by the Immigration Service and a second child victim of trafficking was identified by CMM. The Danish authorities have reported one case of national trafficking in April 2010 involving a Danish woman trafficked for sexual exploitation. A second case of national trafficking was detected in May 2011, involving a foreign woman who was formally identified as a victim of trafficking in June 2011.

128. GRETA is concerned by the approach followed in Denmark to the identification of victims of trafficking, which has an illegal immigration focus. This results in a fast-tracked decision making aimed at the return to their country of origin of foreign nationals who are illegally present in Denmark. Those who are not considered victims of trafficking are deported, while the officially identified adult victims of trafficking are given between 30 and 100 days to prepare their return to the country of origin (see section III.3.f). This gives victims of trafficking little motivation to perform self-reporting and to co-operate with the authorities in the investigation. In addition, the 72-hour time-limit for deciding on the identification of victims of trafficking means that the concept of "potential victim of THB" cannot be applied to cases when there are reasonable grounds to believe that a person may be a victim of trafficking, and be provided with protection and assistance measures while the investigation on the identification takes place. As a result, the current identification system of victims of THB in Denmark is not effective as it leaves out those reluctant to report themselves and those who do not want to co-operate with the authorities.

31 Action Plan to combat human trafficking 2011-2014, page 4.

129. It should be noted that the Universal Periodic Review of Denmark in respect of its human rights obligations, carried out by the United Nations Human Rights Council and concluded in September 2011, includes a recommendation that Denmark should strengthen the identification of victims of trafficking, including the capacities of those involved in the identification process.

130. **GRETA urges the Danish authorities to review the identification procedure of victims of trafficking with a view to ensuring that potential victims are treated, in the first place, as persons who have been exposed to human rights violations rather than as offenders. To this end, GRETA considers that the Danish authorities should:**

- **take into account the special needs and circumstances to be addressed in the identification of child victims of trafficking, including the setting up of a special referral mechanism for unaccompanied children;**

- **envisage a longer time-frame for the identification of victims of trafficking, taking into account the traumatic experience they may have suffered and the need for sufficient time to gather all the necessary information and decide on the status of victims of trafficking;**

- **ensure that the restrictive interpretation of "trafficked to Denmark" is no longer applied;**

- **review the practice of holding potential victims of trafficking in custodial settings while their identification is pending and provide appropriate alternatives for both women and men victims of trafficking;**

- **adopt a proactive approach to the identification of victims of trafficking for the purpose of labour exploitation, for example by organising regular visits of labour inspectors to working sites in the sectors most at risk, such as agriculture, construction, cleaning, restaurants and hotels;**

- **give the CMM an enhanced role in the identification of victims who are illegally present in Denmark, in particular with a view to ensuring that potential victims of trafficking are not charged by courts without being identified.**

131. **Further, GRETA invites the Danish authorities to ensure that the guidelines, indicators and other tools used for the identification of victims of trafficking by law enforcement agencies, Government departments and service providers cover all types of THB, are harmonised and that there is a regular exchange of information between the relevant actors performing the identification of victims.**

b. Assistance to victims

132. 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.

133. One of the objectives of the second NAP (2007-2010) was to support victims of trafficking by strengthening the social assistance available in Denmark, defining the responsibilities of different authorities and organisations providing services to victims, as well as improving outreach work and expanding the services available. The Danish authorities have indicated that during the implementation of the second NAP, 66.2 million DKK were transferred to the CMM to improve the social assistance to victims of trafficking, to co-ordinate action between NGOs and public authorities and to collect and convey knowledge in the field of THB. The funds were used for financing the special crisis centre for victims of trafficking, the counselling centres, outreach work, etc.

134. The second NAP stated that women trafficked into prostitution must have the option of staying in a crisis centre which suits their specific situation, whereas unaccompanied minors should be accommodated in an asylum centre with specially trained staff. The third NAP (2011-2014) provides that trafficked adult men and women are to stay in crisis centres, asylum centres or another location depending on their individual needs, while child victims of trafficking are to be accommodated in a safe residence provided either by local councils or the asylum system.

135. There are three shelters for women victims of violence in Denmark, one run by the NGO Reden/The Nest International, another run by the Red Cross and a third one run by LOKK, the national organisation of women's shelters. These three shelters have a total capacity of 54 places and accommodated, respectively, 14 victims of trafficking in 2008 and 34 in 2009. In 2010, nine victims of trafficking identified by CMM were accommodated in these shelters.

136. The shelter run by the NGO Reden/The Nest International in Copenhagen has been in operation since 2003. When visited by the GRETA delegation, the shelter had 12 places, employed five members of staff (including one present around the clock) and had an annual budget of DKK 6 million (provided by the CMM). Victims of trafficking accommodated in the shelter receive health and psychological care free of charge, and have access to education as well. They can stay there for up to three months (which corresponds to the maximum length of the delayed departure, 100 days) except for asylum seekers, who can stay longer.

137. Accommodation for victims of trafficking residing illegally in the country is also provided in crisis centres, private accommodation and asylum centres. There are no specialised centres for men or child victims of trafficking in Denmark. Accommodation for children residing illegally is provided through agreements with the Red Cross and the municipality of Copenhagen. Given the low numbers of identified men and child victims of THB, the Danish authorities do not plan to set up specialised centres for them, though it is planned to provide training to staff working in centres receiving victims of trafficking. According to the Danish authorities, the third NAP envisages the conclusion of agreements with specific centres in Copenhagen to accommodate men victims of trafficking. GRETA recalls that the Danish authorities have the responsibility to ensure satisfactory standards of accommodation for all victims of trafficking and stresses the need to take account of the special needs of children.

138. The second NAP provided that victims of trafficking should be informed about their rights and the services and options for assistance that they have in Denmark. In practice, social workers working for the CMM provide potential victims with information regarding the support and assistance available. There are also counselling centres in Copenhagen and Fredericia and two mobile health units run by the CMM where potential victims of THB can get information, including legal information and counselling. The Danish Prostitution Centre (which is part of the National Board of Social Services) and NGOs such as Reden/The Nest International and Hope Now carry out outreach work and provide information to potential victims in the streets as well as in massage parlours and similar places. After the identification, the CMM provides victims with written information materials and the contact details of CMM staff.

139. Victims of trafficking are informed of their rights and options to seek asylum or residence on humanitarian grounds, including the right to be assigned a lawyer paid by the CMM. GRETA considers that victims of trafficking not wishing to apply for asylum should also be provided with legal advice and assistance to explore the limited options to stay legally in Denmark if they fear the reaction of traffickers in their country of origin. The Danish authorities have indicated that the third NAP (2011-2014) envisages improving the information and guidance to victims on how they can explore the options to stay legally in Denmark if they fear the reactions from traffickers in their country of origin. GRETA takes note of these plans, but stresses its concern that most of the information and counselling are provided to victims of trafficking orally and not in a written format.

140. The Immigration Service is charged with ensuring that health treatment, psychological assistance, legal assistance and socio-pedagogical assistance are offered to victims of trafficking, in collaboration with the CMM. The Danish authorities have indicated that the offers of aid and assistance under the Aliens Act are not conditional on the willingness of the foreign victim of trafficking to participate in criminal investigations or proceedings. Trafficked persons who seek asylum or do not have a regular residence status in Denmark are supported by the Immigration Service. For victims staying legally in Denmark or having a residence permit, the CMM is responsible for funding their accommodation, psychological and legal assistance, counselling, vocational training and healthcare services.

141. Through their contacts with persons residing illegally in Denmark, social workers may come across potential victims of trafficking. The Danish authorities have reported that even if these persons do not want to talk to the police and go through the identification procedure performed by the Immigration Service, they can still be offered accommodation and assistance (e.g. through the counselling centre for foreign women set up by the CMM in 2008).

142. Several NGOs have been contracted by the CMM to provide assistance to victims of trafficking. Social outreach work is conducted by the Danish Prostitution Centre, Reden/The Nest International and Pro Vest, in agreement with the CMM. The support and services offered, apart from accommodation, include medical, psychological and dental care; counselling and guidance on available opportunities, rights and services; social support; legal assistance; skills-training courses; and prepared repatriation to countries of origin.

143. The Danish authorities have reported that in 2008, 27 victims of trafficking (out of a total of 29 identified victims) received assistance; in 2009, 44 victims (out of a total of 48 identified); in 2010, 48 victims (out of a total of 52 identified).

144. In the case of child victims of trafficking, the Danish Immigration Service draws up an individual action plan, in collaboration with the child's personal representative. All school-age children staying legally or illegally in Denmark for a minimum period of six months are subject to compulsory education, in accordance with the Public School Act. This also applies to unaccompanied minors identified as victims of trafficking. The Danish authorities have indicated that, in practice, children placed under the responsibility of the Immigration Service are enrolled in primary or secondary education immediately following their accommodation in an asylum centre, a crisis centre or other appropriate form of accommodation financed by the Immigration Service.

145. As already noted in paragraph 123, child victims of trafficking identified in the centres for unaccompanied minors run by the Danish Red Cross are assigned a professional legal guardian who informs them of their rights and status as victims of a crime. The Red Cross provides such children with support during their stay and keeps them informed on progress regarding the proceedings that affect them. If a child victim of trafficking is returned, the Danish Red Cross contacts NGOs in the country of origin, and if he/she receives a residence permit, the Red Cross liaises with local authorities concerning options for accommodation.

146. Although foreign nationals without legal stay in Denmark as well as asylum seekers do not have access to the labour market, the Danish authorities have indicated that the IOM programme to assist the return of foreign victims of trafficking (see paragraph 177) includes education and job training, depending on their individual needs and capacity, with a view to helping them to support themselves in their country of origin. The evaluation of the second NAP indicated that when social support is provided, it generally concentrates on helping victims to cope with their situation, rather than proactively offering them concrete opportunities for return and reintegration. Further, the evaluation noted that, without an effective and sustainable rehabilitation and reintegration, there is a risk of further migration and re-trafficking and therefore there must be a close link between the support provided during the "reflection period" and the subsequent reintegration in the country of return.

147. GRETA must stress that assistance and protection programmes should be implemented in accordance with the needs of victims of trafficking and quality standards, in order to ensure the victims' physical, psychological and social recovery, and their reintegration upon return to their country of origin. GRETA concludes that further efforts should be made to provide adequate support to adult and child victims of trafficking during their stay in Denmark and in preparation for their reintegration in the country of return.

148. Further, GRETA notes that more information is needed for victims of trafficking, including children, regarding their legal rights and obligations, the benefits and services available and how to access them. GRETA must stress the importance of providing such information in languages that victims of trafficking can understand, as established by the Convention, which includes the use of qualified interpreters. In addition, victims also need specific information on the implications of being recognised as a victim of trafficking and legal assistance and legal aid to undertake civil actions for compensation and redress.

149. **GRETA urges the Danish authorities to ensure that all victims of trafficking are provided with adequate support and assistance, including access to education, vocational training and the labour market, during their stay in Denmark and in preparation for their reintegration and rehabilitation upon return to the country of origin.**

150. **Further, GRETA considers that the Danish authorities should:**

- **improve the provision of information to victims of trafficking on their legal rights and obligations, the services and assistance measures available and how to access them, such as legal assistance, access to legal aid and right to compensation. In this context, written information materials on the rights of potential and identified victims should be drawn up in an appropriate range of languages;**

- **assess the needs of adult and child victims of trafficking and review accordingly the protection and assistance measures and services offered to them, including the provision of safe and suitable accommodation.**

c. Recovery and reflection period

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

152. Pursuant to Article 33(1) of the Aliens Act, a decision on the refusal or revocation of a residence permit, expulsion or return must state a time-limit for departure from Denmark. Under Article 33(14) of the Aliens Act, the Immigration Service determines the time-limit for departure to be 30 days if the person in question is a victim of trafficking (other foreign nationals in the same situation must leave Denmark immediately). This period of 30 days, which applies to identified victims of THB who are illegally present on Danish territory, can be extended to up to 100 days if the victim agrees to co-operate in the prepared return to her/his country of origin, which is managed by the IOM (see section III.3.f). The Danish authorities have indicated that the reflection period only applies to trafficked foreigners who do not fulfil the conditions for – or apply for - a residence permit and therefore have to leave Denmark. That said, the grounds on which victims of trafficking can get a residence permit in Denmark are extremely limited (see paragraphs 160 and 161).

153. According to the second NAP, "victims of trafficking will, upon request, normally be granted a travel deadline of 30 days, with an option to further extend the travel deadline upon request. This is done so that support and counselling can be provided to the individuals in question. Victims who are EU nationals may, as a starting point, stay for up to three months in Denmark". The NAP refers to this travel deadline as a "reflection period" of up to 100 days for victims of human trafficking who collaborate on their prepared return. The third NAP for 2011-2014 has not changed this policy, but it envisages the appointing of a contact person for all victims of trafficking, in order to prepare individual action plans for the reflection period to address the specific needs of each victim in terms of housing, health care, legal assistance, socio-educational assistance, etc.

154. However, even if during the above-mentioned period victims of trafficking receive support and counselling, the ultimate aim is to prepare their departure from Denmark, in line with the Aliens Act, rather than to make it possible for them to recover from the exploitation suffered and take a decision on whether to co-operate with the competent authorities, which was the rationale for the inclusion of the reflection period in the Convention. This is another consequence of the approach taken in Denmark which considers THB as an illegal immigration issue.

155. The Danish authorities have reported that 20 victims of trafficking were granted a "reflection period" in 2008 (out of 29 identified victims), 25 in 2009 (out of 48 identified victims) and 28 in 2010 (out of 52 identified victims).

156. **GRETA urges the Danish authorities to review the legislation in order to ensure that victims of trafficking are provided with an adequate recovery and reflection period, in line with Article 13 of the Convention, rather than a time-limit to prepare their departure from the country as illegal aliens.**

d. Residence permits

157. 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.

158. EU Member States have been encouraged to follow the second option in their application of EU Council Directive 2004/81 on the residence permit issued to third-country nationals who are victims of trafficking or who have been the subject of an action to facilitate illegal immigration, and who co-operate with the competent authorities. However, as mentioned previously (see paragraph 13), Denmark is not bound by this Directive.

159. Denmark has no specific legal basis to grant residence permits to victims of trafficking, who can apply for asylum or temporary residence permits on humanitarian grounds, as any other foreigners. The Danish authorities have reported that the granting of residence permits to victims of trafficking follows the rules for asylum seekers and foreign nationals risking death penalty, torture, etc. in case of return (Articles 7(1) and 7(2) of the Aliens Act).

160. Pursuant to Article 9(b)(1) of the Aliens Act, a residence permit on humanitarian grounds can be granted to victims of trafficking who are registered asylum-seekers when significant considerations warrant it, such as a serious physical or psychological illness, and on the basis of the applicant's personal situation. A residence permit can also be granted if exceptional reasons make it appropriate, such as extensive media exposure, or if the stay of trafficked persons in Denmark is necessary for criminal investigations or proceedings. In case of an unaccompanied minor, a residence permit can be issued if there are reasons to believe that he/she will be placed in an emergency situation upon return to his/her country of origin (Article 9(c)(3)(ii) of the Aliens Act).

161. However, the above provisions have seldom been used to grant residence permits to foreign nationals who are victims of trafficking. According to statistical information provided by the Danish authorities, two victims of trafficking received residence permits on humanitarian grounds in 2008, one in 2009 and none in 2010.

162. The absence of a specific provision enabling victims of trafficking to stay beyond the time-limit for departure prevents them from obtaining a temporary residence permit in Denmark on the basis of their status as victims of trafficking. Victims of trafficking who risk prosecution in their home country can be granted asylum, but this does not replace the need to comply with Article 14(1) and 14(5) of the Convention.

163. In 2004, the Council of Europe Commissioner for Human Rights stated that further consideration should be given to the grounds on which victims of trafficking were allowed to stay in Denmark and the length of such stay. He recommended that permission to stay in Denmark be given automatically to witnesses for at least the duration of the criminal proceedings and irrespectively of whether they are staying lawfully or unlawfully in the country, rather than leaving such decisions to the discretion of the immigration authorities[32]. The Commissioner further recommended that the right to stay beyond the time of the criminal proceedings should also be considered, as the threat of quick deportation made victims more reluctant to inform on traffickers and act as witnesses. In 2007, the Council of Europe Commissioner reiterated the recommendation to grant a temporary, if not permanent, residence permit to victims of trafficking who co-operate with the authorities[33].

164. In a similar vein, one of the recommendations made as part of the United Nation's Universal Periodic Review of Denmark in 2011 (see paragraph 129) is to strengthen the protection of victims of trafficking by allowing them to stay in the country on a work or residency permit. The Danish authorities have not accepted this recommendation on the basis that it implies the introduction of a special residence permit for foreign victims of trafficking and that, according to the Aliens Act, a residence permit cannot be granted only for the reasons that a foreigner has been exposed to trafficking, which is applicable to both adults and children[34].

165. **GRETA urges the Danish authorities to review the system for granting residence permits to victims of trafficking with a view to ensuring that the victim-centred approach which underpins the Convention is fully applied and in order to prevent re-trafficking.**

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[32] Report by the Commissioner for Human Rights on his visit to Denmark (13-16 April 2004), CommDH(2004)12, July 2004.

[33] Memorandum to the Danish Government: Assessment of the progress made in implementing the 2004 recommendations of the Council of Europe Commissioner for Human Right, CommDH(2007)11, July 2007, paragraph 68.

[34] Report of the Working Group on the Universal Periodic Review – Denmark - Addendum, Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review, Human Rights Council, 18th session, A/HRC/18/4/Add.1, 13 September 2011, page 11.

e. Compensation and legal redress

166. 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.

167. Victims of trafficking are offered legal assistance by the CMM, in collaboration with the Danish Prostitution Centre and Pro Vest, through social outreach at counselling centres and shelters. The assistance includes guidance on legal issues and rights, counsel with a legal representative and, if necessary, the appointment of a lawyer for the court proceedings. The CMM does not have in-house lawyers, but the hiring of a lawyer is planned. Further, support attorneys are assigned to victims of trafficking by the court (pursuant to Article 741(a) of the Administration of Justice Act) and their tasks include explaining the procedures, informing victims about access to psychological and social support and the right to compensation, assisting them in court, handling the compensation claim and providing assistance if the victim applies for asylum or residence.

168. There is no specific legal provision for the compensation of victims of trafficking, who have the same rights as victims of other crimes under the State Compensation to Victims of Crime Act, pursuant to which victims can obtain compensation for personal injury and damage to property caused by a violation of the CC in case the offender is known. State compensation can be requested after the criminal proceedings have been completed, as a person convicted for THB may be liable to pay compensation to the victim for personal injury, property damage or pain and suffering. Victims who receives compensation from the offender cannot receive State compensation for that damage.

169. Reference should be made to Directive 2004/80/EC relating to compensation to crime victims, which allows victims of violent intentional crimes to receive State compensation from the EU Member State in which the crime was committed, irrespective of the country of residence of the victim in the EU where he/she can file the claim for compensation. The rules of access to compensation in cross-border situations operate on the basis of EU Member States' national schemes on compensation to victims of violent crimes committed in their territory. In this sense, Article 1(1) of the State Compensation to Victims of Crime Act provides for State compensation in relation to crimes committed on Danish territory, irrespective of the nationality of the victim or the offender. Further, pursuant to Article 1(3) of this Act, compensation can be awarded, in special situations, for injury caused by acts committed outside Denmark if the victim is a Danish resident or national or was in the service of a Danish foreign mission abroad at the time of the offence.

170. The Danish authorities have indicated that police staff provide guidance to victims of trafficking regarding compensation and, in particular, provide them with a form for claiming State compensation. Applications are sent to the police of the district where the offence was committed, which forwards them to the Criminal Injuries Compensation Board. The latter estimates that it has received 10 applications from victims of trafficking; compensation ranging from 10 000 to 50 000 DKK was awarded in some cases. The low number of applications could be explained by a lack of knowledge of the possibility for State compensation, but also by difficulty to comply with the eligibility conditions, which include the obligation to report the crime to the police within 72 hours of it having occurred, to have made a claim for compensation from the offender if the case is tried in court, and to submit the State compensation claim within two years of the offence being committed[35]. According to the Danish authorities, the Criminal Injuries Compensation Board has changed its registration procedure in 2011 and applications from victims of trafficking will be registered separately in the future.

[35] The Danish authorities have indicated that in the cases where a judgment has been passed, the two year time-limit is calculated from the date when the judgment becomes final. If the police investigates the case without instituting criminal proceedings, the time-limit is calculated from the date of the police decision to discontinue the investigation. The Criminal Injuries Compensation Board will disregard the 72-hour time-limit for reporting the offence to the police if a judgment has been passed in the case and it usually grants exemption from the time-limit for reporting the offence if the offender is known.

171. In addition, GRETA was informed that in 2010 two victims of trafficking were awarded compensation by the offender for “injuries to feelings” in the context of criminal proceedings at the City Court of Copenhagen. In one case the victim was awarded 25 000 DKK (i.e. 3 350 Euros) and in the other, 40 000 DKK (i.e. 5 300 Euros).

172. A third possible option for victims of trafficking to get compensation is through a civil claim, independently of criminal proceedings. These cases are more difficult as THB needs to be proven, which is illustrated by the fact that there have been no compensation claims by victims of trafficking without criminal proceedings.

173. GRETA notes that a major difficulty to claim State compensation is linked to the limited time allowed for victims of trafficking to stay in Denmark. The maximum time-limit for departure of 100 days, in the case of victims who were illegally present in the country, is not long enough to conduct the procedure for State compensation, which should be initiated after the court case against the traffickers ends.

174. **GRETA invites the Danish authorities to:**

- **continue their efforts to provide information and legal assistance to victims of trafficking, in order to enable them to exercise their right to compensation from the traffickers and/or the State, and ensure that victims have effective access to free legal aid in this respect;**

- **consider granting residence permits to victims of trafficking for the duration of the legal proceedings, with a view to enabling them to benefit from compensation and redress;**

- **improve the registration of compensation claims by victims of trafficking regarding both compensation from the State and the offender.**

f. Repatriation and return of victims

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

176. The assisted return of victims of trafficking is managed by the IOM and funded by the Danish Immigration Service and the Department of Gender Equality. The IOM is responsible for the preparation of reintegration plans for victims of trafficking who choose to return voluntarily to their home countries.

177. The IOM offers a "package" to victims of trafficking for their voluntary assisted return, including a cash grant of USD 450 (paid in three monthly instalments of USD 150), to cover basic needs after arrival to the country of return; income generating assistance (for a maximum of USD 3 000) for a type of activity which takes into account previous work experience and education; housing support, based on the needs of the person; and medical assistance in case the victim has health problems that need to be treated upon return. If victims of trafficking cannot return to live with their families, the IOM can assist them to find suitable temporary accommodation, such as a shelter or a safe-house run by the IOM or an NGO. After arrival, reintegration assistance is provided by the local IOM office or an IOM partner, in accordance with the personal reintegration plan prepared in Denmark.

178. According to statistical information provided by the Danish authorities, three victims of trafficking were repatriated in 2008 (out of 29 identified victims of trafficking) and seven in 2009 (out of 48). The IOM office in Denmark has reported 18 voluntary returns managed by them between March 2008 and January 2011, noting that the number of returns has increased since a more comprehensive reintegration package was introduced in 2010.

179. The evaluation of the second NAP reported a general reluctance from identified victims to take advantage of the offer of assisted return through the IOM. The significant drop-out rate was considered to be due to participants' difficulties in visualising life following return, in particular overcoming the reasons for having left their country. In addition, the evaluation of the NAP recommended that the assisted return scheme be subject to an external evaluation to better understand its results and to re-establish confidence in the system. According to the Danish authorities, an external evaluation of prepared returns, which is included in the third NAP, is planned to be conducted in 2011.

180. Unaccompanied minors who are not granted asylum or a residence permit are offered prepared repatriation, also managed by the IOM. However, GRETA is concerned by reports from NGOs according to which no risk assessment is carried out before minors are returned to their country of origin. The Danish authorities have indicated that there have been no cases of unaccompanied minors victims of trafficking from third countries having been returned to their country of origin involuntarily and without the offer of appropriate assistance. Of the two identified trafficked children in 2010, one disappeared and the other returned voluntarily to his home country, with the assistance of the Danish police. The UN Committee on the Rights of the Child has urged the Danish authorities to take effective measures to safeguard the rights of children in their territory, especially those of unaccompanied children, to ensure that they do not fall prey to trafficking and that child victims of trafficking are not repatriated except where such repatriation is in their best interests ("Concluding observations: Denmark", CRC/C/DNK/CO/4, 7 April 2011). Further, the third NAP (2011-2014) establishes that the prepared return and reintegration of child victims of trafficking must be planned together with the personal representative of the child and include support and help for the child in his/her country of origin.

181. The Danish authorities have indicated that in the spring of 2011 the CMM carried out a series of visits and study-tours to selected governmental and non-governmental organisations that provide assistance to victims of trafficking returned from Denmark to countries such as Nigeria, Italy, Spain and Romania. For example, social workers from the CMM have accompanied a victim of trafficking back to Nigeria, in 2011, in order to help her resettle and start a small business. The aim is to strengthen linkages and develop more direct collaboration and co-ordination with a view to collaborating efficiently on a case-to-case basis. Information materials for NGOs and victims of trafficking are being developed about services and assistance in the country of origin.

182. **GRETA considers that the Danish authorities should review the current institutional and procedural framework for the return and repatriation of victims of trafficking, having regard to their safety, protection and dignity and in order to avoid their re-victimisation. In the case of children, a specific risk-assessment and process to determine the best interest of the child should be carried out.**

183. **Further, GRETA invites the Danish authorities to continue their co-operation efforts with the national authorities and relevant NGOs in the countries of return of victims of trafficking in order to improve their reintegration and rehabilitation.**

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

a. Substantive criminal law

184. 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).

185. THB was classified as an offence in Denmark in 2002, by virtue of Article 262(a) of the CC. According to this provision, a person who engages in THB is liable to a term of imprisonment of up to eight years (there is no minimum penalty). In addition, as mentioned above, a person convicted for THB may be liable to pay compensation for the personal injury, property damage or pain suffered by the victim of trafficking. In the case of the offence of trafficking committed against a child, the penalty is the same as for adults (i.e. a maximum of eight years imprisonment).

186. The Danish authorities have indicated that the Ministry of Justice is currently preparing a legislative proposal for amending Article 262(a) of the CC to bring Danish legislation in line with the new EU directive on THB as regards the maximum penalty for the crime of THB and the exploitation of victims of trafficking for begging or criminal activities. The legislative proposal is expected to be presented to Parliament in 2011. **GRETA would like to be kept informed of future amendments to the CC concerning the offence of THB**.

187. Pursuant to Article 59(7) of the Aliens Act, any person who intentionally assists an alien to unlawfully enter or stay in Denmark is liable to be fined or imprisoned for up to two years. Such assistance may consist in helping the alien to cross the border, providing them with false/forged entry documents or giving the authorities false information for the purpose of obtaining permission to enter for that person. The Danish authorities have indicated that the office of the Director of Public Prosecutions has no knowledge of cases in which this provision of the Aliens Act has been applied to the offence of THB. However, there was a case in which the offender, who provided the victim of trafficking with a false passport, was also convicted of forgery (on the basis of Article 171 of the CC).

188. The Danish authorities have reported that the aggravating circumstances listed in Article 24 of the Convention are applied in Denmark. However, GRETA notes that Article 81 of the CC listing the applicable aggravating circumstances when determining the penalty does not cover all four such circumstances included in Article 24 of the Convention. In particular, the aggravating circumstance of committing the offence against a child is not specifically mentioned, even though Article 81(11) of the CC refers to taking advantage of the injured party's vulnerable or defenceless position. The preparatory works of Article 262(a) of the CC indicate that if the victim of trafficking for the purpose of sexual exploitation is under 15 years of age, this should be considered as an aggravating circumstance. However, the preparatory works are not legally binding. Moreover, the definition of a child under the Convention is a person under 18 years of age and the aggravating circumstance of committing the offence of THB against a child relates to all types of exploitation, not only sexual exploitation. Further, GRETA notes that another aggravating circumstance provided for in the Convention, when the offence "deliberately or by gross negligence endangered the life of the victim", is also not specifically mentioned in Article 81 of the CC.

189. Article 81 of the CC establishes the possibility for increased penalties in case of repeated crimes, if the offender has been previously convicted in Denmark or abroad and if no more than 10 years have elapsed since the previous sentence. The Danish authorities have provided as an example of the application of this provision a case dating back to 2009 in which the offender, who had previously been convicted of THB, was sentenced to three and a half years of imprisonment.

190. The Danish authorities have reported that Articles 5(1) and 5(2)(3) of the Passport Act establish that anyone who for illegal purposes distorts or removes parts of a passport or another travel document is liable to a fine or imprisonment for a maximum of six months. Further, Articles 171 and 174 of the CC establish, respectively, the crime of forgery of documents and the use of genuine documents contrary to the purpose intended for them. However, GRETA notes that these provisions do not cover all the obligations stemming out of Article 20 of the Convention, which requires the establishment of criminal offences related to procuring or providing a forged travel or identity document as well as to retaining, removing, concealing, damaging or destroying a travel or identity document, when committed intentionally and for the purpose of enabling THB.

191. Regarding legal persons such as limited companies, associations, foundations or public authorities, Article 306 of the CC, which was introduced in 2000 and amended in 2001 and 2002, extends the liability of such persons for violations of any provision of the CC, including Article 262(a) on THB, on the condition that the violation was committed within the establishment of the legal person and by fault of one or more persons connected to the legal person or by fault of the legal person. The office of the Director of Public Prosecutions has no knowledge of criminal proceedings against legal persons in relation to THB.

192. As regards the criminalisation of the known use of services of trafficked persons, it is currently under consideration in Denmark as far as THB for sexual exploitation is concerned. GRETA was informed that a report by the Criminal Law Council is expected in 2012 regarding the review of Chapter 24 of the CC on sexual offences. **GRETA would like to receive further information on this process, including a copy of the report when it is available.**

193. Articles 75 and 76 of the CC provide for the confiscation of proceeds from criminal activities. Confiscation may concern any person to whom the proceeds of a criminal act have passed directly as well as those on whose behalf such a person has acted. In December 2008, the City Court of Copenhagen convicted two persons for THB and the amount of 20 000 DKK was confiscated from each of them as estimated illegal earnings. Further, in March 2010, the same Court convicted two persons for THB, leading to the confiscation of 135 000 DKK from each of them as estimated illegal earnings. In January 2011, the Court of Frederiksberg convicted three persons of THB and confiscated 50 000 DKK from two of them and 497 500 DKK from the third one, as estimated illegal earnings. Considering that Article 23(3) of the Convention requires Parties to adopt such legislative and other measures as may be necessary to enable them to confiscate or otherwise deprive the instrumentalities and proceeds of criminal offences related to THB or property the value of which corresponds to such proceeds, GRETA welcomes the fact that there have been confiscations of proceeds from criminal offences related to THB in Denmark. GRETA recalls that the confiscation of criminal assets, which requires as a prerequisite to detect, identify and seize the illegal assets at the time of the criminal investigations and to have adequate procedures to do so, is crucial as a way of reinforcing the effect of the penalty, as well as ensuring the payment of compensation to the victim.

194. **GRETA urges the Danish authorities to review the legislation, in order to fully reflect the substantive provisions of the Convention regarding the criminalisation of acts relating to travel or identity documents (Article 20) and aggravating circumstances (Article 24).**

195. **GRETA also invites the Danish authorities to consider the criminalisation of the known use of services of trafficked persons for all types of exploitation.**

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

196. 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.

197. Article 82(6) of the CC includes as mitigating circumstances that the offence was committed under the influence of coercion, deceit or exploitation of the offender's young age or considerable financial or personal difficulties, irresponsibility or state of dependency. The Danish authorities have also reported that, depending on the circumstances, a crime committed under the influence of coercion may not be punishable. Article 83 of the CC establishes that the penalty may be reduced to less than the usual minimum when information about the offence, the perpetrator or other circumstances conclusively warrant a reduction. The Danish authorities have indicated that the penalty may be rescinded in other mitigating circumstances and that there is case law concerning the overturn of court decisions to expel a person convicted for using a false passport after the person was identified as a victim of trafficking.

198. GRETA notes that the crimes committed under coercion by victims of trafficking are not considered as a special category exempting them from punishment. The CC includes coercion, deceit, exploitation and state of dependency as mitigating circumstances for reducing or rescinding the penalty, but these circumstances will be assessed in each case.

199. The evaluation of the second NAP referred to the possibility of withdrawing criminal convictions handed down against a victim of trafficking, as prosecutors can take into account that the person may have acted under duress and not press criminal charges. For this to happen, it is essential that the person is identified as a victim of trafficking. The evaluation showed that the CMM is not always present when potential victims come into contact with the authorities and that there may be cases when victims are effectively punished twice if their status as potential victims of trafficking is not investigated and they are charged with offences related to their illegal stay in Denmark or lack of identification documents. This situation may also result in victims of trafficking not coming forward to seek help against their traffickers if they know that they have acted illegally, even if they were compelled to do so.

200. GRETA is concerned by reports according to which victims of trafficking have been prosecuted for crimes which have often been committed as a direct result of being trafficked, such as fraud of identity documents, and subjected to penalties such as imprisonment of 40 days or more, deportation and a five-year ban to re-enter the Schengen area. This criminalisation leads to further victimisation of trafficked persons, which can be very traumatic for them and may have the additional negative effect of preventing them from seeking help when they are aware that they have acted illegally. On the other hand, GRETA notes that there have been judicial decisions exempting victims of trafficking from punishment and cancelling expulsion orders with entry bans, such as a decision of the Danish Supreme Court of 4 August 2010 and decisions of Denmark's Eastern High Court of 22 October 2010 and 26 November 2010.

201. The Danish authorities have indicated that the third NAP (2011-2014) addresses the importance of avoiding re-victimisation of victims of trafficking and envisages the drawing up of guidelines on the possibility of not punishing victims of trafficking for offences they committed while being trafficked.

202. **GRETA urges the Danish authorities to adopt a victim-centred approach and to take steps to achieve an effective implementation of Article 26 of the Convention by:**

- **providing for the possibility of not imposing penalties on victims of trafficking for their involvement in unlawful activities, to the extent that they were compelled to do so;**

- **ensuring that while the identification procedure is ongoing, potential victims of trafficking are not punished for their illegal entry or residency in Denmark.**

c. Investigation, prosecution and procedural law

203. 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).

204. In the *Rantsev v Cyprus and Russia* case[36], the ECHR stated that Article 4 of the European Convention on Human Rights entails a procedural obligation to investigate situations of potential THB, as once the matter has come to the attention of the authorities they must act of their own volition. Such investigations must be capable of leading to the identification and punishment of the individuals responsible. Further, the ECHR has stressed that THB is a problem often not confined to the domestic arena, and therefore the obligation to conduct a domestic investigation is supplemented with a duty to co-operate effectively with the relevant authorities of other States concerned in the investigation of events which occurred outside their territories.

205. Many investigations and police operations are based on intelligence which often has an international dimension (see paragraph 86), involving other EU countries, Baltic States or countries of origin such as Thailand. Most investigations are concentrated in Copenhagen, partly because the anti-trafficking branch of the Copenhagen police is very active. The Danish authorities have reported that from 2011 police efforts against THB will be focused at the local district level and be based on an assessment of the local conditions and crime situation**.**

206. Investigators dealing with THB cases informed GRETA that they have the necessary tools and investigative techniques at their disposal, including phone tapping and vigilance. The NEC also tracks the flow of money linked to THB offences, as it does for other types of organised crime.

207. There is increasing recognition by governmental and non-governmental actors, including trade unions, that THB for the purpose of labour exploitation may exist in Denmark[37], especially in agriculture, construction, cleaning companies, restaurateur business and amongst *au pairs*. Concerns have been expressed as to the lack of co-operation between the police and trade unions on the issue of identifying persons trafficked for labour exploitation. The difficulties to detect such cases are related to the role of intermediate recruitment agencies in countries of origin and the fact that labour inspectors do not check the social conditions of workers, but rather whether health and safety regulations are complied with.

208. GRETA stresses that the proactive investigation of potential THB cases by the police should be stepped up, including co-operation between police forces, labour inspectors, employers' organisations and trade unions in order to tackle cases of THB for the purpose of labour exploitation.

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

37 According to information available to GRETA, there have so far been only two identified cases of THB for labour exploitation in Denmark.

209. 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. Further, 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 trafficking.

210. In Denmark, criminal proceedings can be initiated by the victim or the public prosecution. The Danish authorities have reported that NGOs or associations supporting victims cannot intervene in criminal proceedings against a trafficker, but they can offer assistance to victims and be present during the legal proceedings.

211. Victims of trafficking are not a party to the criminal proceedings but they are usually summoned to testify as witnesses, and the judge normally allows them to attend the hearing after having testified. However, the limited right to stay in Denmark granted to foreign victims of trafficking (up to 100 days if they co-operate with authorities in their assisted return) will often not be long enough to guarantee the presence of the victims at the criminal proceedings. That said, the Danish authorities have referred to the possibility of granting a temporary residence permit to persons whose stay in Denmark is necessary because of ongoing criminal proceedings (see paragraph 160), even though the Aliens Act does not include this specific circumstance as a basis for granting a residence permit.

212. On the other hand, it is possible for victims of trafficking to return to Denmark to testify in court. The Copenhagen Police has reported two cases where the victims returned to Denmark to testify in court and, upon request from the prosecutor, the court paid for the air tickets, accommodation and other expenses of the victims and those accompanying them (a person from a local NGO helping victims of trafficking and a person from a local women's shelter supporting victims of trafficking upon their return). GRETA commends the efforts to provide access to justice to foreign victims of trafficking after they leave Denmark. As regards claims for compensation, they may be presented during the criminal proceedings without the victim being present (i.e. by a legal counsel appointed to assist the victim).

213. The police and the prosecution must inform the court if special consideration is needed for a witness in a criminal case (Article 193 of the Administration of Justice Act) and the court can decide on the measures to be taken, such as that the proceedings are not public or the accused must leave the room during the testimony of the victim (Articles 29, 29(a) and 856(1) of the Administration of Justice Act). Further, the National Police has established a witness protection programme. The Danish Security and Intelligence Service has indicated that on principal grounds and in consideration of the persons protected under the witness protection programme, the number of victims of trafficking under protection and the reasons why protection is necessary cannot be disclosed. While GRETA agrees with the argument concerning the confidentiality of the reasons for providing protection, it fails to understand why the total number of cases in which witness protection was granted to victims of trafficking cannot be disclosed.

214. Concerning the protection of victims in criminal proceedings, Article 123 of the CC establishes that anyone using threats of violence or committing an offence by violence, coercion, etc. against another person or their closest relatives, and connected with the person's statement in the police or in Court, is liable to be fined or imprisoned for up to eight years.

215. According to information provided by the Danish authorities, 25 criminal proceedings for THB were initiated in 2008, 29 in 2009 and 13 in 2010. The number of convictions secured were respectively seven in 2008, 11 in 2009 and 11 in 2010. The imprisonment sentences ranged from six months to three years and nine months. GRETA is concerned that the sanctions applied to trafficking cases do not seem proportionate and dissuasive enough given the nature of the crime. Practically all the perpetrators were foreigners and most of them were deported with an injunction against re-entering the country for at least 10 years.

216. **GRETA considers that the Danish authorities should:**

- **continue proactive investigations to detect cases of THB for sexual exploitation;**

- **step up the proactive investigation of potential cases of THB for the purpose of labour exploitation, e.g. in sectors such as agriculture, construction, cleaning work, restaurants and amongst *au pairs*, including through co-operation between the police and other relevant actors*;***

- **ensure that victims of trafficking are adequately informed, protected and assisted during court proceedings, including measures to protect their private life and safety;**

- **facilitate the legal stay in Denmark of victims of trafficking so that they can testify and exercise their rights to compensation and redress.**

5. Concluding remarks

217. GRETA welcomes the affirmations of the Danish authorities that THB is a human rights violation. That said, GRETA's evaluation of the concrete measures taken for the protection and assistance of victims of trafficking in Denmark leads it to conclude that the consideration of THB as a human rights violation has not yet been fully developed.

218. In particular, GRETA is concerned by the approach to the identification of victims of trafficking in Denmark, which has an illegal immigration focus. As a result, potential victims of trafficking are treated as offenders in the first place, rather than as persons who have been exposed to human rights violations. In addition, GRETA notes that the focus on returning victims of trafficking to their countries of origin gives them very limited possibility to stay in Denmark while investigations and court proceedings take place, which reduces the possibility for victims to get compensation and redress either from the offender or the State. This is compounded by the lenient sanctions applied to traffickers.

219. GRETA considers that the Danish authorities should take further steps to ensure that the human rights-based and victim-centred approach underpinning the Convention is fully reflected and applied in the national policy to combat THB, from prevention to protection, prosecution and redress. This includes taking measures to ensure that all victims of trafficking are properly identified as well as further steps to empower them by enhancing their rights to adequate protection, assistance and redress. Improved co-ordination, co-operation and partnerships among governmental agencies, NGOs and other members of civil society in Denmark are crucial to make progress against THB.

220. In addition, all relevant officials and professionals in contact with victims or potential victims of trafficking, including law enforcement officials, prosecutors, judges, labour inspectors and social workers, should be adequately informed and trained about the need to apply a human rights-based approach to action against THB on the basis of the Council of Europe Anti-Trafficking Convention and the case-law of the European Court of Human Rights.

221. GRETA invites the Danish 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 Danish Government for achieving the purposes of this Convention.

Appendix I: List of GRETA's proposals

Core concepts and definitions

1. GRETA considers that the Danish authorities should ensure that the principle according to which the consent of the victim is irrelevant when one of the means listed in the Convention has been used applies in all dimensions of the identification, protection and assistance of victims of trafficking as well as in the context of criminal proceedings.

Comprehensive approach and co-ordination

2. GRETA considers that the Danish authorities should step up their efforts to detect potential child victims and victims of trafficking for the purpose of labour exploitation.

3. GRETA invites the Danish authorities to:

- involve representatives of NGOs in the meetings of the Inter-Ministerial Working Group on Human Trafficking and associate NGOs in policy development;

- further improve the co-operation and co-ordination between governmental departments, the CMM, the Police, NGOs and other members of civil society active in the field of action against THB and the protection of victims.

Training of relevant professionals

4. GRETA considers that the Danish authorities should ensure that all relevant professionals are trained periodically, throughout their careers, in the identification of victims of trafficking, including with a view to improving the identification of victims of trafficking for labour exploitation. Such training should be designed taking full account of gender and child-specific aspects and be provided to law enforcement officers, border guards, immigration officials, staff working in refugee reception centres and detention centres for irregular migrants, staff working in establishments for juveniles and minors run by the social services, diplomatic and consular staff, social welfare officers and labour inspectors.

5. Further, GRETA invites the Danish authorities to step up the training provided to legal and judicial staff on the issue of THB and the applicable legislation and case-law, including the need to apply a human rights-based approach to action against THB on the basis of the Council of Europe Anti-Trafficking Convention and the case-law of the European Court on Human Rights.

Data collection and research

6. GRETA considers that, for the purpose of preparing, monitoring and evaluating anti-trafficking policies, the Danish authorities should develop and maintain a comprehensive and coherent statistical system on trafficking in human beings by compiling reliable statistical information from all main actors and allowing disaggregation (concerning sex, age, type of exploitation, country of origin and/or destination, etc.). This should be accompanied by all the necessary measures to respect the right of data subjects to personal data protection.

7. In addition, GRETA invites the Danish authorities to continue conducting and supporting research on THB-related issues, in particular in areas which have received little attention in the past, such as trafficking in children, and trafficking for the purpose of labour exploitation. Such research is an important source of information for future policy measures in the field of action against THB.

International co-operation

8. GRETA considers that the Danish authorities should explore further possibilities for international co-operation with governmental and non-governmental actors in the fields of protecting and assisting victims of trafficking, including in preparation of their return and reintegration in their countries of origin.

9. Further, GRETA invites the Danish authorities to continue developing the aspect of international co-operation with a view to preventing and combating THB.

Prevention of trafficking in human beings

10. GRETA considers that the Danish authorities should adopt measures to raise awareness of THB for the purpose of labour exploitation and discourage demand for the services of trafficked persons, in particular in the agriculture, construction and cleaning sectors.

11. In addition, GRETA considers that the Danish authorities should take steps to provide information to foreign nationals planning to travel to Denmark to alert them about the risks of THB for sexual and labour exploitation, as well as inform them of their rights.

12. Further, GRETA invites the Danish authorities to:

- explore the possibility of participating in awareness-raising activities in countries of origin of victims of trafficking, such as Nigeria, Thailand and Romania, where the majority of the women trafficked for sexual exploitation in Denmark originate from;

- plan future information and awareness-raising campaigns to prevent THB with the involvement of civil society, on the basis of previous research and impact assessment.

13. Further, GRETA encourages the Danish authorities to disseminate widely the 'Handbook for diplomatic and consular personnel on how to assist and protect victims of human trafficking' in order to identify and address potential THB-related risks during the visa application system.

Identification of victims of trafficking in human beings

14. GRETA urges the Danish authorities to review the identification procedure of victims of trafficking with a view to ensuring that potential victims are treated in the first place as persons who have been exposed to human rights violations rather than as offenders.

15. To this end, GRETA considers that the Danish authorities should:

- take into account the special needs and circumstances to be addressed in the identification of child victims of trafficking, including the setting up of a special referral mechanism for unaccompanied children;

- envisage a longer time-frame for the identification of victims of trafficking taking into account the traumatic experience they may have suffered and the need for sufficient time to gather all the necessary information and decide on the status of victims of trafficking;

- ensure that the restrictive interpretation of "trafficked to Denmark" is no longer applied;

- review the practice of holding potential victims of trafficking in custodial settings while their identification is pending and provide appropriate alternatives for both men and women victims of trafficking;

- adopt a proactive approach to the identification of victims of trafficking for the purpose of labour exploitation, for example by organising regular visits of labour inspectors to working sites in the sectors most at risk, such as agriculture, construction, cleaning, restaurants and hotels;

- give the CMM an enhanced role in the identification of victims who are illegally present in Denmark, in particular with a view to ensuring that potential victims of trafficking are not charged by courts without being identified.

16. Further, GRETA invites the Danish authorities to ensure that the guidelines, indicators and other tools used for the identification of victims of trafficking by law enforcement agencies, Government departments and service providers cover all types of THB, and are harmonised and that there is a regular exchange of information between the relevant actors who perform the identification of victims.

Assistance to victims

17. GRETA urges the Danish authorities to ensure that all victims of trafficking are provided with adequate support and assistance, including access to education, vocational training and the labour market, during their stay in Denmark and in preparation for their reintegration and rehabilitation upon return to the country of origin.

18. Further, GRETA considers that the Danish authorities should:

- improve the provision of information to victims of trafficking on their legal rights and obligations, the services and assistance measures available and how to access them, such as legal assistance, access to legal aid and right to compensation. In this context, written information materials on the rights of potential and identified victims should be drawn up in an appropriate range of languages;

- assess the needs of adult and child victims of trafficking and review accordingly the protection and assistance measures and services offered to them, including the provision of safe and suitable accommodation.

Recovery and reflection period

19. GRETA urges the Danish authorities to review the legislation in order to ensure that victims of trafficking are provided with an adequate recovery and reflection period, in line with Article 13 of the Convention, rather than a time-limit to prepare their departure from the country as illegal aliens.

Residence permits

20. GRETA urges the Danish authorities to review the system for granting residence permits to victims of trafficking with a view to ensuring that the victim-centred approach which underpins the Convention is fully applied and in order to prevent re-trafficking.

Compensation and legal redress

21. GRETA invites the Danish authorities to:

- continue their efforts to provide information and legal assistance to victims of trafficking in order to enable them to exercise their right to compensation from the traffickers and/or the State, and ensure that victims have effective access to free legal aid in this respect;

- consider granting residence permits to victims of trafficking for the duration of the legal proceedings, with a view to enabling them to benefit from compensation and redress;

- improve the registration of compensation claims by victims of trafficking regarding both compensation from the State and the offender.

Repatriation and return of victims

22. GRETA considers that the Danish authorities should review the current institutional and procedural framework for the return and repatriation of victims of trafficking, having regard to their safety, protection and dignity and in order to avoid their re-victimisation. In the case of children, a specific risk-assessment and process to determine the best interest of the child should be carried out.

23. Further, GRETA invites the Danish authorities to continue their co-operation efforts with the national authorities and relevant NGOs in the countries of return of victims of trafficking in order to improve their reintegration and rehabilitation.

Substantive criminal law

24. GRETA urges the Danish authorities to review the legislation in order to fully reflect the substantive provisions of the Convention regarding the criminalisation of acts relating to travel or identity documents (Article 20) and aggravating circumstances (Article 24).

25. GRETA also invites the Danish authorities to consider the criminalisation of the known use of services of trafficked persons for all types of exploitation.

Non-punishment of victims of trafficking in human beings

26. GRETA urges the Danish authorities to adopt a victim-centred approach and to take steps to achieve an effective implementation of Article 26 of the Convention, by:

- providing for the possibility of not imposing penalties on victims of trafficking for their involvement in unlawful activities, to the extent that they were compelled to do so;

- ensuring that while the identification procedure is ongoing, potential victims of trafficking are not punished for their illegal entry or residency in Denmark.

Investigation, prosecution and procedural law

27. GRETA considers that the Danish authorities should:

- continue proactive investigations to detect cases of THB for sexual exploitation;

- step up the proactive investigation of potential cases of THB for the purpose of labour exploitation, e.g. in sectors such as agriculture, construction, cleaning work, restaurants and amongst *au pairs,* including through co-operation between the police and other relevant actors*;*

- ensure that victims of trafficking are adequately informed, protected and assisted during court proceedings, including measures to protect their private life and safety;

- facilitate the legal stay in Denmark of victims of trafficking so that they can testify and exercise their rights to compensation and redress.

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

Public bodies

- Ministry of Justice
- Ministry of Foreign Affairs
- Ministry of Refugee, Immigration and Integration Affairs
- Ministry of Social Affairs
- Department of Gender Equality
- National Board of Social Services
- Immigration Service
- Prosecution Service
- National Police (National Aliens Division and National Centre of Investigation)
- Copenhagen Police, Special Unit against THB
- Social Welfare Offices of the City of Copenhagen
- Criminal Injuries Compensation Board
- Danish Centre against Human Trafficking
- Danish Institute for Human Rights
- Ms Line Barfod, Member of Parliament
- Danish Bar and Law Society
- Board of Alien Law Attorneys

Intergovernmental organisations

- IOM office in Copenhagen

Non-governmental organisations

- Consultancy within Engineering, Environmental Science and Economics (COWI)
- Danish Red Cross
- Gadejuristen/The Street Lawyers
- Hope Now
- Pro Vest
- Reden International
- Danish Sex Workers Organisation
- United Federation of Danish Workers (3F)

Government's comments

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

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 Danish authorities on 14 October 2011 and invited them to submit any final comments within one month. The Danish authorities' comments, submitted on 19 December 2011, are reproduced hereafter.

The Danish authorities have asked that their preliminary comments to GRETA's draft report, which were taken into account by GRETA when establishing the final report, be also published.

JUSTITSMINISTERIET

Ministry of Justice

GRETA Secretariat
Ms Petya Nestorova
Council of Europe
67075 Strasbourg CEDEX
France

Date: 19 December 2011
Office: Strafferetskontoret
Contact: Mette Kjølby Miller-Harris
Our ref..: 2011-733-0015
Doc.: 296647

Dear Ms Nestorova,

I hereby enclose the comments from the Government of Denmark to the final GRETA report concerning the evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Denmark.

Yours sincerely,

Carsten Kristian Vollmer
Head of Division

Final comments to the GRETA report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Denmark, submitted on 19 December 2011

At the 11th meeting of GRETA (20-23 September 2011), the final report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Denmark was adopted. Denmark received GRETA's final report on 14 October 2011 and has been invited to submit any final comments to this report.

A draft version of the report was adopted by GRETA at its 10th meeting (21-24 June 2011) and was submitted to the Danish authorities for comments. The Government of Denmark commented on the draft report on 23 August 2011 (included).

In the following, Denmark's comments to GRETA's final report are made. Reference is also made to the comments given on 23 August 2011.

Chapter II

Paragraph 14
Reference is made to Denmark's comments of 23 August 2011 to this paragraph from which the possibilities of granting residence permit outside the asylum procedure appears. It should be noted that the mentioned sections in the Aliens Act are section 9 b and 9 c (1). Section 9, which is mistakenly referred to in GRETA's final report, concerns family reunification.

Paragraph 27
Please note that the Danish Immigration Service (DIS), which is now a directorate under the Ministry of Justice, is responsible for the administration of (not the « implementation » of) the Aliens Act.

Chapter III

Paragraph 56
From Denmark's point of view it is incorrect that "… there are no legal provisions guaranteeing their rights to assistance, protection and redress, other than as victims of crime". Reference is made to Denmark's former remarks to then paragraphs 118, 132 and 134 (primarily) and paragraphs 29, 80 and 117 of the draft report.

Paragraph 110
It should be noted that the DIS bases its decision whether there are grounds to believe that a foreigner has been exposed to trafficking on information and determinations from the police and the Danish Centre against Human Trafficking (CMM), cfr. paragraph 115.

Paragraph 111, 120 and 121
Reference is made to Denmark's former remarks to then paragraph 113 and 114 of the draft report. It must once again be stressed that there is no time limit for the DIS' identification of victims of trafficking.

Paragraph 113
Please note that the DIS always – as standard procedure – informs CMM of all new identified victims of trafficking.

Furthermore, it is incorrect as stated in paragraph 113 that the police do not always inform the CMM regarding cases of THB.

As previously stated, please note that CMM will always be informed about potentially trafficked persons, who have been in contact with the police. According to internal police guidelines the Danish police shall and as such will contact CMM through the CMM hotline when the police come across a person who potentially is a victim of trafficking.

Paragraph 114:
The internal police guidelines do not differ between men and women. As such, men will be treated the same way as women.

Paragraph 122
Unaccompanied minors under the provision of the DIS are accommodated in special facilities run by the Danish Red Cross or a local municipality. Information regarding a potential unaccompanied minor victim of trafficking may come to the knowledge of the DIS from a variety of sources including the personal representative, asylum center staff, social workers, the police or the minor him/herself.

It should be noted that the DIS is not familiar with the mentioned 25 cases said to have been identified under the joint CMM/Red Cross project. Only a few cases of potential minor victims of THB have been shared with the DIS in the past 5 years.

Paragraph 137
Accommodation of unaccompanied minor staying illegally in Denmark (and asylum seekers) is provided by the DIS through agreements with the Danish Red Cross and local municipalities.

Paragraph 148
Please note that all adult victims of trafficking are appointed a contact person (a social worker appointed by the CMM). The contact person supports the said person during the stay in Denmark and provides him/her with information regarding legal rights and obligations, different offers of aid and assistance available etc.

It should also be noted that according to section 56 a (1) in the Danish Aliens Act all unaccompanied minor foreigners, including victims of trafficking, are appointed a personal representative to care for their interests. In case of trafficking, a representative with experience in this field, e.g. a social worker or an employee at the Danish Red Cross, will be appointed.

Paragraph 160
The correct reference to the Aliens Act regarding residence permit granted to unaccompanied minors on grounds of being placed in an emergency situation upon return to the country of origin is section 9 c (3).

Paragraph 165
Reference is made to the former remarks to then paragraphs 14, 146 and 148 of the draft report.

Paragraph 180 and 182
Unaccompanied minor asylum seekers have their asylum cases thoroughly processed by the DIS and the Refugee Board, including where relevant the risk of being subject to trafficking in human beings. If the conditions for asylum are not fulfilled, an unaccompanied minor can be granted a residence permit if he/she has no family, access to public care or similar or the possibility of staying in a reception and care center in his/her country of origin and consequently would be left to fend for him/herself.

Appendix 1: List of GRETA's proposals:

1. Reference is made to Denmark's comments of 23 August 2011 to the draft report regarding (then) paragraph 55.

2. The efforts to detect potential child victims and victims of trafficking for the purpose of labour exploitation are already stepped up with the launch of the third National Action Plan to combat Trafficking in Human Beings (2011-2014).

Funds are allocated for developing outreach work in selected cities and training of social workers in contact with vulnerable children. Extensive training programs for a broader range of relevant front personnel and information and guidance material are being developed. A working group gathering governmental actors, municipalities and NGOs is set up and chaired by the Danish Centre against Human Trafficking (CMM).

In relations to trafficking for labour exploitation new groups of relevant actors will be identified, trained and involved in the action. Outreach work will be strengthened and systematised. Agreements on accommodation for male victims of trafficking will be concluded and a working group is established with relevant actors from the governmental level, municipality level, trade unions and NGOs chaired by the CMM. It will focus on exchange of knowledge of where and in which sectors trafficking for labour exploitation can occur and how potential victims can be identified.

3.1. NGOs are already associated in the policy development e.g. through close involvement in the evaluation of the second National Action Plan (2007-2010) and furthermore by providing input during the development of the third National Action Plan (2011-2014).

NGOs are also represented in the regional and national referral groups that report to the inter-ministerial working group (the national referral mechanism system) and NGOs can be invited on an ad hoc basis to inter-ministerial working group meetings but cannot be permanent members of the group. This is why they are represented in the national and regional groups.

3.2. The importance of coordination and cooperation between all actors in the field is highly acknowledged by the Danish authorities. This is also why the CMM was established already in 2007.

With regards to the coordination and cooperation between the different actors the external evaluation of the second National Action Plan (2007-2010) concluded that (from the English summary):

"An important result has been the establishment of the Centre against Human Trafficking (CMM). The Evaluation Team considers that the Centre should take a large part of the credit for the improvements in Denmark's response to trafficking and it is difficult to see how the protection activities undertaken would have achieved the same level of success without CMM's contribution.

Likewise, the inter-ministerial working group and the regional reference groups contribute to effective coordination, knowledge dissemination, and empowerment of contributing organisations. Overall, the Evaluation assesses that the implementation of the Action Plan has been characterised by a common, coordinated, and dedicated input from many actors, including social organisations and the police, where it has been important that the different actors are familiar with each other's roles and responsibilities".

On this basis the role of and resources to the Centre has been affirmed with the third National Action Plan (2011-2014).

4. Extensive training programs for a variety of professionals within relevant fields have been carried out under the second National Action Plan (2007-2010). This work will continue and be further developed within the third National Action Plan (2011-2014).

The Danish Working Environment Authority (WEA) finds it relevant, that the labour inspectors in Denmark are trained and informed in the identification of victims of trafficking thus being able to give an increased focus on trafficking whilst on inspections.

WEA has a well established experience in training a number of inspectors who are then able to train all other inspectors.

As stated in paragraph 67 and Denmark's reply to GRETA's questionnaire of 1 February 2010, the Danish National Police started training students at the Danish Police Academy in THB in 2007.

In addition the Danish National Police started training more experienced police officers in fighting THB. All police officers dealing with the investigation of THB are as such obliged to participate in a course where THB is among the topics.

Furthermore, since 2007 the Danish National Police has organised 1-2 seminars a year where all key persons in the local police districts are invited to be updated on THB and to share good practice.

Upon request from the local police districts the Danish National Police also organises local seminars on THB. The participants are police officers involved in border control and patrolling the streets.

Because of the Schengen Treaty there are only a few places left in Denmark where border control is still carried out. The strategy of the Danish National Police is therefore to provide all police officers with knowledge of indicators of THB which enables them to react in the right way when encountering THB. Furthermore, local police districts have appointed police officers who are experts in THB.

This educational effort will continue and, as such, the Ministry of Justice finds that the police are already complying with GRETA's recommendations in paragraph 72/recommendation 4.

5. Under the third National Action Plan (2011-2014) focus on education and training of judicial staff, the prosecution and defence lawyers will be stepped up.

6. The CMM collects, compiles and presents data on the total number of identified victims of trafficking, their gender, age, type of exploitation, country of origin, number of prepared returns etc. Data is presented on a quarterly basis on the centre's webpage.

7. Conducting and supporting research on THB-related issues is still a part of the work that the CMM will be carrying out. Thus, the effort will be continued.

8. Extensive measures were taken by the CMM in 2010 and 2011 to strengthen cooperation with authorities and NGO's in countries of origin with regard to a prepared return for victims of trafficking. This work continues and will be further developed.

9. The Danish National Police considers international cooperation to be of great importance and as such, due attention is given to further develop international cooperation through relevant fora in order to prevent and combat THB.

10. It is part of the third National Action Plan (2011-2014) to carry out educational and prevention campaigns directed at the general public on human trafficking. These initiatives will focus on different aspects of trafficking.

14/15. With the goal of ensuring a higher degree of identification of victims through outreach work the most successful efforts are strengthened with the third National Action Plan (2011-2014). In order for victims quickly to receive support and help, clear guidelines for identification of potential victims of trafficking are being maintained and developed with regards to foreign women in prostitution. Furthermore, new activities in relation to minors will be launched, e.g. further focus on revealing any occurrence of human trafficking in minors within other areas than prostitution.

As previously stated, please note that according to the Aliens Consolidations Act potential victims of trafficking must be placed in crisis centers rather than detentions facilities if this measure is sufficient to ensure the departure of the alien.

According to the said act, an alien without legal stay in Denmark must leave the country. If the alien does not leave the country voluntarily the police will ensure his or her departure.

Furthermore, according to the same act, aliens without legal stay in Denmark can be detained in order to enable the abovementioned departure of the alien. Such a decision is made by the police if detention is necessary for the case and it is proportional. This decision includes an assessment of whether measures such as imposing a place of stay, duty to report to the police daily or detention of identity documents etc. are sufficient to enable the departure of the alien.

The police are in all cases under the obligation to use the lesser intrusive measure if possible. It is, however, always a concrete assessment of how it is possible to ensure the alien's presence.

Normally the police will detain an alien without legal stay in Denmark until the DIS has determined whether the alien is a victim of trafficking. This practice is carried out because the aliens in question are without legal stay in Denmark and the DIS must assess whether the aliens are to be sent out of the country. In the police's experience the aliens in question will disappear immediately if they are not detained, which prevents the DIS from making an assessment of the alien's status and the police from ensuring the alien's departure if they are in fact not victims of trafficking.

If and when an alien is identified as a victim of trafficking, the person is released from detention – typically to a women's shelter – and the person will be granted a reflection period and offered a prepared return to the person's home country.

Because of the good experiences, the options under the Aliens Consolidations Act have been thoroughly described in internal police guidelines and all local police districts have been informed about good practice in this area.

Furthermore, as part of the new action plan against trafficking in human beings 2011-2014 the options under the Aliens Consolidations Act of placing potential victims of trafficking in women's shelters instead of detention centers will be described thoroughly in the police guidelines specific for trafficking in order to ensure knowledge of these options throughout the Danish police force. The guidelines will also underline that an alien identified as a victim of trafficking is to be released from detention typically to a women's shelter as mentioned above.

In relation to victims of trafficking for the purpose of labour exploitation, it should be noted that in Denmark, there is no statutory minimum wage, and it is the responsibility of the social partners to regulate pay and working conditions in collective agreements. Due to the strong organisations on the Danish labour market and the wide access to take industrial actions, the so-called 'Danish model' has been successful in securing a well functioning labour market with high level of pay and good working conditions.

It follows from the Danish labour market model that the WEA does not inspect pay and working conditions as these are exclusively handled by the social partners. The role of the WEA is to inspect the working environment of the enterprises.

WEA will inspect the working environment in all enterprises with two employees or more within the next eight years.

To the extent that WEA's inspectors become aware of situations indicating trafficking, the WEA will pass on the information to the police. The police will then take over the case.

16. Ensuring that procedures and tools for identification are harmonised and streamlined is an ongoing task already carried out by the CMM.

Please also note that police guidelines focus on information and evidence needed in potential criminal proceedings and as such must differentiate from other governmental guidelines.

The Danish National Police and other relevant government bodies already exchange general knowledge about trafficking tendencies within, among other things, the national referral mechanism. Such information exchange will continue.

17. All victims are provided with support and assistance following their individual needs. It is an ongoing task to improve the assistance offered to the victims based on their feedback. During their stay in Denmark, victims have access to various qualifying courses and vocational training.

18. Information produced by the CMM in the form of flyers and brochures about services and assistance measures is available to potential victims of trafficking in a number of relevant languages. Written information on legal requirements for residency is in progress. Potential victims of trafficking have access to legal advice and assistance in drop-in centres and during the reflection period.

19. It should be noted that the purpose of the reflection period and the different offers of aid and assistance given to victims of trafficking during the reflection period aim at helping and strengthening each individual and at helping the person in question to escape the influence of the traffickers and thereby minimize the risk of re-trafficking. Therefore – if a victim of trafficking seeks asylum – the special aid and assistance is already offered to the said person during the asylum process (meaning before a deadline for leaving Denmark may be relevant).

20. Reference is made to Denmark's comments to the draft report, cf. paragraph 148 (primarily), 14 and 216.

21. Reference is made to Denmark's comments to the draft report, cf. paragraph 176 and 182. As mentioned, victim compensation is applicable to all victims regardless as to whether the victim has a residence permit in Denmark or not.

22. Reference is made to the above-mentioned remarks regarding paragraph 182.

23. Reference is made to Denmark's comments to the draft report, cf. Paragraph 80.

24. Reference is made to the remarks regarding recommendation 26, see below.

25. In December 2011, the Danish Government will present an amendment to Article 262 (a) of the Danish Criminal Code on THB, according to which the exploitation of victims of trafficking for all types of criminal activity is covered. The proposed amendment will bring Danish legislation in line with the new EU-directive.

26 (1). As stated previously the third National Action Plan (2011-2014) addresses the importance of not re-victimizing victims of trafficking, including the possibility of not sanctioning criminal offences committed by victims of THB.

As such, the Director of Public Prosecutions has under the new action plan been tasked with developing guidelines for the Danish prosecution service regarding when charges can be withdrawn for criminal offences committed by victims of trafficking as a result of them being trafficked e.g. falsifying id-documents.

27 (1). As previously stated, the police effort against trafficking in human beings is continued as in previous years with focus on among other things conducting proactive investigations regarding THB for the purpose of sexual exploitation.

Building on the experience from previous years the effort is from 2011 anchored in the local police districts and based on an assessment of the local conditions and crime situation.

27 (2). As previously stated the Danish National Police has earmarked resources to collect relevant knowledge about forced labour. As forced labour is found to be of a very limited extent in Denmark, the Danish National Police finds no need for an enforced police effort in this area. As such, only one person has ever been identified as a victim of THB for this purpose in Denmark.

THB for the purpose of forced labour will of course be investigated as any other criminal offence committed in Denmark.

However, please note that the Danish police have a widely founded cooperation with the labour market in Denmark and other relevant parties and government bodies ensuring an efficient police effort against illegal work and any other criminal offences as a consequence hereof. Furthermore, the Danish government has just – as part of the 2012 budget negotiations – taken new initiatives regarding labour exploitation.

Preliminary comments of the Danish authorities to GRETA's draft evaluation report, submitted on 23 August 2011

Paragraph 10:
The number of identified victims of trafficking in human beings was 29 in 2008 and 48 in 2009, cf. paragraphs 130, 140 and 187.

Paragraph 14:
The Aliens Act should be referred to as "Aliens (Consolidations) Act no. 1061 of 18 August 2010".

The reference to sections 7 and 8 in the Aliens Act is incorrect as these sections in fact do concern asylum: A trafficked foreigner who risk persecution in his/her home country can be granted asylum if the foreigner falls within the provisions of the Convention relating to the Status of Refugees (28 July 1951), cf. section 7 (1) (convention status) in the Danish Aliens Act, or if the foreigner risks the death penalty or being subjected to torture or inhuman or degrading treatment or punishment in case of return to his/her country of origin, cf. section 7 (2) (protected status) in the Aliens Act. Section 8 concerns foreigners who arrive in Denmark under an agreement made with the United Nations High Commissioner for Refugees or similar international agreement, and who fall within the provisions of section 7 (1) or 7 (2) in the Aliens Act.

However, residence permit outside the asylum procedure can be granted if humanitarian considerations warrant it, cf. section 9 b in the Aliens Act, if exceptional reasons make it appropriate or if a trafficked foreigner's stay in Denmark is necessary regarding criminal investigations or proceedings, cf. section 9 c (1) in the Aliens Act.

Paragraph 22:
The Inter-ministerial working group is composed of:
- The Department of Gender Equality
- The Ministry of Justice
- The Ministry of Refugees, Immigration and Integration Affairs
- The Ministry of Social Affairs
- The Ministry of Foreign Affairs
- The Ministry of Employment
- The Ministry of Taxation
- The Ministry of Interior and Health.

These 8 ministries are permanent members and they can invite other governmental actors to join working group meetings. Both the Immigration Service under the Ministry of Refugees, Immigration and Integration and the Danish Centre against Human Trafficking under the Department of Gender Equality participate in all meetings.

The CMM has participated in all meetings in the Inter-Ministerial Working Group since the beginning of 2010.

It is, however, not correct, as stated in the draft report, that the Director of Public Prosecution is represented in the Inter-Ministerial Working Group on Human Trafficking.

Paragraph 24:
The National Board of Social Services does not generally report to the Department of Gender Equality, but to the Ministry of Social Affairs. Only CMM, which is placed under the Board of Social Services, reports to the Department of Gender Equality.

Paragraph 25:
[The text in bold indicates specific adjustments and additions to the drafted text.]

"CMM has three main objectives: **to develop** and to improve …. etc."

The CMM has the authority to identify VoTs residing legally in Denmark. With regard to VoTs residing illegally in the country the CMM is requested to submit an identification form based on interviews with the victim. On the basis of this form and a police report the Danish Immigration Service identifies VoTs.

Paragraph 26:
[The text in bold indicates our specific adjustments and additions to the drafted text.]

"The service providers/NGOs **hold contracts with CMM** and receive their funding via CMM."

Paragraph 27:
[The text in bold indicates our specific adjustments and additions to the drafted text.]

"At the present moment the CMM employs a co-ordinator, **3 consultants and a part-time secretary."**

Paragraph 29:
Please note that the Danish Immigration Service (DIS) is also responsible for granting the status of victim for asylum seekers (who are allowed to stay in the country during the asylum procedure).

Paragraph 31:
The participating NGOs in the regional and national referral groups are the following:

1. Red Cross
2. Pro Vest
3. Reden International/The Nest International
4. Reden/The Nest
5. Gadejuristen/The Street Lawyer
6. Hope Now
7. LOKK
8. The Danish Institute for Human Rights

Also represented in the referral groups are The Danish Tax and Customs Administration and a defence lawyer.

Paragraph 32:
[The text in bold indicates our specific adjustments and additions to the drafted text.]

"The national referral group meets **four times a year** and is run by the CMM."

Paragraph 34:
Please note that the National Centre of Investigations (NEC) sorts under the Danish National Police.

Paragraph 35:
Please note that the national database is managed by the Danish National Police.

The annual report referred to in this paragraph is also published by the Danish National Police. The report has been published annually since 2007, not 2006. This should be corrected consequently throughout the report, e.g. in para. 83.

Paragraph 50:
The wording in Section 262 A (1) (4) of the Criminal Code ("unlawful creation, corroboration or exploitation of a delusion") is broader than the wording of Section 279 on fraud. Consequently, Section 262 A (1) (4) may cover fraud, but it is not limited to fraud as defined in Section 279.

Paragraph 52:
According to the preparatory works, "indecent sexual activity" in Section 262 A must be interpreted in accordance with Section 228 (1) of the Criminal Code.
It is supposed that Section 228 (1) also includes production of pornographic movies and pornographic pictures in which models are depicted under sexual relations with others. Thus, Section 262 A also covers such situations.
The office of the Director of Public Prosecutions has only knowledge of case law related to the exploitation for prostitution. A summary (in Danish) of this case law is enclosed.

Paragraph 55:
All the elements of the three components (action, means and purpose) contained in Article 4 a of the Convention are covered by Section 262 A of the Criminal Code.

As stated in the draft report, a person cannot give valid consent to being a victim of THB. Consequently, such consent of a victim is irrelevant in the context of criminal proceedings as well as identification, protection and assistance of victims.

Paragraph 62:
Actions in relation to trafficking in children and trafficking for labour exploitation are strengthened with the new NAP (2011-2014). As the numbers of identified victims are low for these categories, main focus is on developing identification measures e.g.:

- Outreach work in relations to potential child victims in the streets of selected cities in Denmark.
- Social workers already in contact with vulnerable children will be trained in THB.
- Reactivation of working group on children. Chaired by CMM and both governmental actors, municipalities and NGOs will participate.
- The existing information and guidance material on children within the social area will be updated with information on children and trafficking.
- New groups of relevant actors within trafficking for labour exploitation will be identified and trained.
- Outreach work within trafficking for labour exploitation will be strengthened and systematised.
- A working group will be established with relevant actors from the governmental level, municipality level, trade unions and NGOs chaired by CMM. It will focus on exchange of knowledge of where/in which sectors trafficking for labour exploitation can occur and how potential victims can identified.

Paragraph 64:
The meeting with the NGOs was held in beginning of November 2010 and not in December.

Paragraph 65:
Cf. the comments regarding para. 71, 89 and 134.

Paragraph 66:

The external evaluation of the second NAP concluded with regards to the coordination and cooperation between the different actors the following (from the English summary): "An important result has been the establishment of the Centre against Human Trafficking (CMM). The Evaluation Team considers that the Centre should take a large part of the credit for the improvements in Denmark's response to trafficking and it is difficult to see how the protection activities undertaken would have achieved the same level of success without CMM's contribution.

Likewise, the inter-ministerial working group and the regional reference groups contribute to effective coordination, knowledge dissemination, and empowerment of contributing organisations. Overall, the Evaluation assesses that the implementation of the Action Plan has been characterised by a common, coordinated, and dedicated input from many actors, including social organisations and the police, where it has been important that the different actors are familiar with each others roles and responsibilities."

As pointed out by the COWI evaluation of the second action plan, coordination between governmental departments, the CMM and NGOs is well established and works to the satisfaction of all involved parties. The organizational structure of the CMM acting as a link between NGOs and governmental departments and authorities works to ensure that NGOs are actually heard and influence policy, procedures and social activities.

Social workers from NGOs (Red Cross, The Nest International, Hope Now and Pro Vest) work closely on a daily basis with social workers from the CMM/The Danish Prostitution Centre) which ensures a flow of information from social practice to the CMM and to governmental departments, especially The Ministry for Gender Equality with whom the CMM works very closely.

Furthermore, NGOs are represented in the referral system (see 31) – a cross sectorial and cross ministerial cooperation platform where information is shared, procedures discussed and regulated, social activities adjusted, etc.

CMM has participated in all meetings during the last two years. CMM is part of the policy development and was closely involved in the development of the third NAP (2011-2014).

Paragraph 67:
[The text in bold indicates our specific adjustments and additions to the drafted text.]

"The National Police **together with CMM, started training of first year** students at the Police Academy."

The National Police also provides training of third year student at the Police Academy.

Paragraph 68:
CMM has organized and completed training for judges together with the Director of Public Prosecutions at The Court Academy under The Courts of Denmark. In total approximately 30 lawyers have participated from high courts and districts courts.

Paragraph 69:
The Ministry of Foreign Affairs (MFA) has not conducted systematic reviews of the effect of the training courses for consuls carried out annually before their posting abroad. In cooperation with the National Police, the MFA adapts the training regularly in relation to external conditions. The MFA is of the opinion that the consuls' capacity and attention to the issue of THB is satisfying. The MFA further notes that its training courses are evaluated internally on a regular basis, which also applies for the training courses for consuls.

Training of consular personnel has resulted in frequent reports from the Danish embassies regarding suspicion of trafficking or other criminal offences committed in connection to visa applications.

Paragraph 70:
Training of all relevant professionals is a huge and ongoing task which many actors are already deeply involved in. New relevant groups are continuously identified and they will be trained accordingly within the given resources available. Training activities are still a priority within the third NAP (2011-2014).

Paragraph 71:
With regard to child trafficking the CMM has arranged different training seminars for professionals with topics such as identification, protection and procedures. The professionals were staff from municipalities, relevant social organisations, Red Cross, police (local and national) and the Prison and Probation Service/detention centres.

Training is an on-going task for the CMM. Training of partners from the labour market and health workers is at present being planned.

Please see the response to Q26 to GRETA's questionnaire.

Paragraph 72:
Increased focus on training of legal and juridical staff is part of the third NAP (2011-2014).

Paragraph 75:
Regarding **India**: Denmark does not finance development projects in India focused on trafficking as all Danish development aid to India was terminated in 2005 when India implemented a lower boundary for bilateral development aid. However, as a member of the EU, Denmark contributes to the three EU financed projects in India to combat trafficking. The projects include, *inter alia*, the prevention and rehabilitation of children and young persons who have been exposed to trafficking.

Regarding **Nepal**: In 2007-2009, Denmark, via the Danish Embassy in Kathmandu, supported an advocacy project on trafficking and gender related violence with DKK 1,1 million. The project aimed at enhancing awareness and knowledge about trafficking and gender related violence in two Nepalese districts. Women and children received training in legal rights and financial management, safe migration and anti-trafficking initiatives.

Regarding **Kenya**: The MFA can provide the following information about the project ”Recovery and Integration of Sexually Exploited Children and Youth”, funded by Denmark:

This project ran between the period of 1st October 2007 and ended on the 31st December 2009. The project was designed to contribute towards mitigating against the rampant trafficking of children and youth along the coast towards commercial sexual activities which was being attributed to international tourism. The project was implemented by a network of eight selected national NGOs based in the coast province of Kenya. A secretariat headed by a project coordinator consisted of the 8 NGOs, representation from the Children’s Department in the Ministry of Home Affairs, Ministry of Youth Affairs and the private sector i.e. hotel operators, pubs, private villas etc. The overall objective of the project was ‘an informed community contributing to reduction of sexually exploited children and youth engaged or forced into commercial sex work.

The results of the project are the following:

Three rescue centres were established. During the implementation period, the centres counselled and rehabilitated children and young persons, who were victims of sexual exploitation. Today, different organizations refer children to the centre for psychological healing and temporary care as resettlement arrangements are sought.

Establishment of a network of organizations. The network is vibrant and able to deliver more effective services to a wide range of clients.

Improved service delivery from organizations owing to capacity improvement. The organizations in the network, service provision was enhanced through capacity building in leadership and operational procedures. An exchange visit to Thailand enabled them to learn various lessons.

Rehabilitation and resettlement of sexually exploitation cases. The project enabled the rescue and rehabilitation of over 280 boys and 350 girls, who were victims of sexual exploitation or were estimated for being at risk. The young persons were also provided with vocational training, microenterprise and entrepreneurship training, school re-enrolment, psychosocial support as well initiation of other income generating projects.

Community awareness in sexual exploitation – Community awareness campaigns, education and training were conducted; establishment of child protection focal points, village elders committees were put up within the community so as to mitigate sexual exploitation of children and young persons at community level.

Regarding **Bangladesh**: Denmark has, via the Danish embassy in Dhaka, supported two trafficking related projects in 2007-2010. The two projects were part of the second phase of the Danish Programme for Human Rights and Good Governance in Bangladesh. Project 1 was an awareness campaign which was carried out in cooperation with a number of local NGOs and was funded by Denmark with DKK 3,41 million. Project 2 was conducted in cooperation with IOM and the Norwegian Embassy in Dhaka and focused on preventive awareness, support for victims and potential victims as well as authority capacity building. Denmark supported this project with DKK 8,98 million.

Paragraph 77:
Denmark has not participated in JITs regarding trafficking.

Paragraph 80:
Please note that all trafficked foreigners, who do not apply for or fulfil the conditions for a residence permit and therefore have to leave Denmark, are granted a reflection period (prolonged deadline for leaving the country) lasting from 30 up to 100 days. Such foreigners are furthermore offered a "prepared return" to their country of origin, which in practice implies an individually planed repatriation programme including among other things arranged reception by a social organization or NGO in the country of origin when possible, and that a reintegration plan will be drawn up to facilitate the return to the country of origin.

Since 2008 the DIS have had a contract with the International Organization for Migration (IOM) regarding the prepared returns. IOM handles the return programs, and the contract includes return preparations, travel assistance, and reintegration assistance, e.g. reception, accommodation, medical care, psycho-social care and counselling, "on the job"-training, education etc., and, if possible, occupation in the country of origin, covering the first 3 months after the return of the victim. In each case of a prepared return IOM finalize with a reintegration report, containing a description of the whole process.

All unaccompanied minor victims of trafficking (and third country nationals regardless of trafficking) not granted a residence permit are offered an assisted voluntary return under the joint DIS/IOM programme. The DIS has stated that the DIS is not familiar with any cases of unaccompanied minors who are third country nationals or victims of trafficking having been returned to their country of origin involuntarily and without the offer of appropriate assistance.

Paragraph 82:
As part of the third NAP an external evaluation of the prepared return is planned to be conducted during 2011. The evaluation will entail recommendations for the future programme.

Paragraph 83:
Please note that the Danish National Police and not the Danish police is the main actor in collecting data on THB in Denmark.

The Danish National Police have since 2007 published a report which contains information about the number of charges and convictions etc. regarding among other things trafficking. The Danish National Police does not disseminate any other information as they are gathered in connection to concrete investigations.

The Department of Gender Equality is responsible for collecting data presented in a yearly status report over the implementation of the NAP. All data is received from the registering authorities e.g. CMM, the Danish National Police and the Immigration Service.

For statistical purposes the DIS collects data on foreigners without legal stay in Denmark and asylum seekers identified by the DIS as victims of trafficking in human beings. The data collected include name, gender, date of birth, citizenship, date of entry and departure, and from 2010 onwards the type of exploitation. The data is not publicly available.

The office of the Director of Public Prosecutions does not systematically collect data related to THB. However relevant case law will be referred to in the enclosed summary mentioned under para. 52. The summery does not disclose any personal information, including the names of the persons involved.

Finally, it must be noted that all public employees are bound to observe professional secrecy.

Paragraph 85:
When Danish police come across a person who potentially is a victim of trafficking, they will contact CMM through the CMM hotline. Consequently, CMM will always be informed about potentially trafficked persons, who have been in contact with the police.

Paragraph 86:
Save the Children has decided to focus on other topics. The field is now monitored by the Red Cross and the CMM.

Paragraph 89:
Two studies are not yet finalized, but will be made available to GRETA as soon as they are published (expected September 2011). A summary of the three reports on forced labour (among au pairs, in the green sector and in cleaning) in English is forthcoming.

Paragraph 90:
Statistical data from CMM includes this kind of data. Data from all social efforts/CMM efforts are collected by CMM and that includes data such as gender, age, nationality, type of exploitation etc.

Paragraph 95:
The assessment of the campaign: "Who is paying the price" indicates that the attitude towards prostitution has not been particularly affected. Looking into specific questions both negative and positive attitudes towards prostitution has been registered.

There has not been made an assessment of the campaign's impact on combating THB as the objective of the campaign was to reduce the demand for sexual services in general in Denmark where prostitution is decriminalised and it is legal to buy sexual services of individuals more than 18 years old.

Paragraph 97:
The CMM's awareness raising campaign targeting the demand side has been postponed until September 2011 (cf. the comments to para. 102). Since two social organisations already launched information campaigns on trafficking in 2008 and 2009, it was considered a reasonable decision from a communicative and cost point of view.

Paragraph 98:
In May 2011 the CMM detected a case of internal trafficking of a foreign victim. The CMM is identifying sectors were internal trafficking of foreign victims are likely to occur and as a first step taking measures to alert and educate front staff in relevant positions.

Paragraph 99:
In addition to the Trafficking Programme under the Neighbourhood Programme, which is mentioned in the report, the MFA has granted DKK 5 million to the UN Population Fund (UNFPA) in order to receive and support women, particularly from Nigeria, who have been exposed to trafficking and are to be returned to their home country.

In connection with the earthquake in Haiti in January 2010 and under the humanitarian appeal of the Government of Haiti and the UN, Denmark contributed DKK 20 million for the protection of women and children in Haiti. The earthquake orphaned many children and young persons, and increased the problem of child abductions to inter alia the United States. The many orphaned and children separated from their parents constituted a particular challenge. A round-the-clock service was therefore created in cooperation with the Haitian government, UNICEF, Save the Children and International Organization for Migration. These services assisted with the identification of children and filing of missing persons reports. Due to the large risk of abuse and abduction of children, extra personnel was stationed at the airport and border control was established on the border between Haiti and the Dominican Republic in order to prevent child smuggling.

Also, it might be added that in May of 2011, Danish police visited the Rumanian police where future cooperation regarding trafficking was discussed.

Paragraph 101:
The Hotline has existed since 2002 and one of the intentions was that potential victims would call in case of emergency or if they needed help and assistance. But the overall experience is that potential victims of trafficking call social workers directly on mobile phones or get in contact with social assistance through outreach work, drop-in centres etc.

The hotline is mostly used by professionals that are in contact with potential victims and needs counselling or need social assistance and/or identification of trafficking.

For instance, in 2010 the total number of calls to the hotline was 193. Of these calls 115 were from the police, (59.6% of the all calls in 2010). 68 of these calls were placed because the police had arrested women that could be potential victims of trafficking and CMM social workers had to confirm or identify trafficking aspects.

In these cases 12 persons were identified as victims of trafficking of CMM.

Further 23 calls were made from the police to inform the CMM about up coming raids targeting prostitution areas which afterwards would require the social assistance from CMM.

Paragraph 102:
The national campaign targeting clients of prostitution and the Danish population in general has been postponed until September 2011 (cf. 97).

The campaign named “Ud med bagmændene” – “Let’s get rid of the traffickers” focus on the trafficker and how you as a client support the trafficker by buying a sexual service from a women trafficked for prostitution. The campaign will use unconventional media choices to create interest from the press and the public.

Every day during the campaign the problem will be viewed from a new angle and thereby hopefully grasp the complexity of the phenomenon.

A campaign website – www.ud-med-bagmaendene.dk – will be launched where the public can find more information on the traffickers and the women’s situation in Denmark.

The aim of the campaign is to kick start awareness, reflection and debate among young men and the public in general about trafficking in women for prostitution. The intention is on the long term basis that this will help reducing the demand side and thereby hopefully reduce the scope of trafficking for forced prostitution in Denmark.

Paragraph 107:
One of the twelve seminars was conducted in Copenhagen.

Paragraphs 113 and 114:
Reference is made to the remark regarding paragraph 29 above.

It should be noted that there is no rule according to which the DIS is required to perform the identification within a certain time limit – but if the foreigners in question are staying illegally in Denmark and do not seek asylum and therefore has to leave within a certain deadline, identification must be carried out soon.

Paragraph 115:
The effort of the Danish police is focused both on prosecuting the persons who control victims of trafficking as well as supporting the potential victims hereof.

In the beginning of an investigation it can be difficult to determine whether the case regards trafficking or procuring. In all cases CMM are contacted as described under paragraph 85.

Paragraph 116:
The option of placing potential victims of trafficking in crisis centers rather than detentions facilities is governed by the Aliens Consolidations Act and not just by police guidelines.

According to said act, an alien without legal stay in Denmark must leave the country. If the alien does not leave the country voluntarily the police will ensure his or her departure.

Furthermore according to the same act, aliens without legal stay in Denmark can be detained in order to enable the abovementioned departure of the alien. Such a decision is made by the police if detention is necessary for the case and it is proportional. This decision includes an assessment of whether measures such as imposing a place of stay, duty to report to the police daily or detention of identity documents etc. are sufficient to enable the departure of the alien.

The police are in all cases under the obligation to use the lesser intrusive measure if possible. It is, however, always a concrete assessment of how it is possible to ensure the alien's presence.

Normally the police will detain an alien without legal stay in Denmark until the Danish Immigration Service has determined whether the alien is a victim of trafficking. This practice is carried out because the aliens in question are without legal stay in Denmark and the Danish Immigration Service must assess whether the aliens is to be sent out of the country. In the police's experience the aliens in question will disappear immediately if they are not detained, which prevents the Danish Immigration Service from making an assessment of the alien's status and the police from ensuring the alien's departure if they are in fact not victims of trafficking.

If and when an alien is identified as a victim of trafficking, the person is released from detention – typically to a women's shelter – and the person will be granted a reflection period and offered a prepared return to the person's home country.

The options under the Aliens Consolidations Act have because of the good experiences as mentioned in paragraph 116 been thoroughly described in internal police guidelines and all local police districts have been informed about good practice in this area.

Furthermore as part of the Danish Governments new action plan against trafficking in human beings 2011-2014 the options under the Aliens Consolidations Act of placing potential victims of trafficking in women's shelters instead of detention centers will be described thoroughly in the police guidelines specific for trafficking in order to ensure knowledge of these options throughout the Danish police force. The guidelines will also underline that an alien identified as a victim of trafficking is to be released from detention typically to a women's shelter as mentioned above.

Paragraph 117:
The DIS is responsible for the identification of victims of trafficking in human beings who fall under the provision of the DIS i.e. asylum seekers and foreign nationals without legal stay in Denmark. The identification of other foreign nationals as victims of trafficking is the responsibility of the CMM.

Unaccompanied minors under the provision of the DIS are accommodated in special facilities run by the Danish Red Cross or a municipality. Information regarding a potential unaccompanied minor victim of trafficking in human beings may come to the knowledge of the DIS from other sources than the personal representative, including asylum center staff, social workers, the police or the minor him/herself.

It should be noted that it is a general principle in Danish law that an administrative decision always can be reconsidered if new relevant information appears.

Paragraph 118:
The DIS makes the final decision regarding the identification of victims of trafficking in human beings provided the said persons fall under the provision of the DIS. The identification is made on the basis of information, typically received from the police and the CMM. In case the views of the police and the CMM differ, the decision of the DIS prevails over both.

Paragraph 123:
Reference is made to the remark regarding paragraphs 113 and 114 above.

Paragraph 124:
Reference is made to the remark regarding paragraphs 113 and 114 above.

Paragraph 125:
This applies to unaccompanied minors with illegal residence in Denmark.

The DIS has stated that information regarding the majority of the approximately twenty five cases said to be identified under the joint CMM/Red Cross project has not been shared with the DIS.

Paragraph 126:
This applies to unaccompanied minors with illegal residence in Denmark.

The objective of returning an unaccompanied minor to his/her country of origin or former country of residence is only relevant if the minor is not granted a residence permit, e.g. asylum or according to the special rules applying to unaccompanied minors in the Aliens Act section 9 (3).

Paragraph 127:
This applies to unaccompanied minors with illegal residence in Denmark.

Paragraph 128:
The office of the Director of Public Prosecutions has no knowledge of cases where the court has announced that identification of victims of THB is not an issue for the court. However, there is case law where potential victims of THB have been acquitted. An example (in Danish) is enclosed.

Paragraph 129:
Please cf. the comments regarding para. 134.

Paragraph 130:
The CMM have reported one case of internal trafficking: A woman of Danish nationality forced into prostitution.

Paragraph 131:
The DIS has stated that in 2010 33 foreign nationals were identified by the DIS as victims of trafficking in human beings. Of these 30 were women, including one unaccompanied minor, and three were men. The oldest of the identified victims was born in 1957, the youngest in 1992. Two persons were victims of trafficking for purposes of forced labour, while the remaining 31 persons were trafficked for sexual exploitation.

As for the 52 VoTs identified by CMM, all were women trafficked for sexual exploitation.

VoT's identified by the Danish Centre against Human Trafficking ranged from 19-45 years, with an average of 30.

Paragraph 132:
Concerning the mentioned time limit, reference is made to the remark regarding paragraphs 113 and 114 above.

The reflexion period (between 30 and 100 days) concerns only adults.

Please note that a deadline for leaving Denmark is only fixed when a foreigner does not have permission to stay in Denmark and therefore has to leave the country, e.g. alter final rejection of asylum.

It is important to note that if there is "reasonable grounds to believe that a person may be victim of trafficking" the DIS will determine the person "a victim of trafficking".

The time-limit (72 hours) is rarely a problem. Identification is possible over a longer period of time because they stay in Denmark for a longer time, due to their often illegal residence status and therefore placement in the asylum centres.

Furthermore, it should be noted that the offers of aid and assistance under the Aliens Act are not conditional on a trafficked foreigner's willingness to participate in criminal investigations or proceedings.

Paragraph 134:
It is very important to note that the interpretation of the term "trafficked to Denmark" does not imply that only persons trafficked directly to Denmark from their country of origin may be identified as victims of trafficking in human beings. It is not a prerequisite that such a person is trafficked directly from his/her country of origin. The interpretation of the term implies that the person in question is staying in Denmark as the direct result of being a victim of trafficking. Hence, foreigners who are trafficked to Denmark from a country other than their country of origin may be identified as victims of trafficking in human beings. Likewise, foreigners trafficked internally in Denmark may also be identified as victims of trafficking in human beings.

With regards to the remarks concerning the role of CMM in the identification of victims of trafficking staying illegally in Denmark, please note that the DIS bases the decisions regarding trafficking on CMM's and the police's assessment of the question, and that CMM plays a central role in the identification of the vast majority of foreign nationals identified by the DIS as victims of trafficking in human beings.

The CMM referral system also deals with minor victims of trafficking.

Concerning the identification of victims of THB for the purpose of labour exploitation, it must be noted that this is stressed as a new topic in the Government’s new action plan to combat trafficking in persons (2011-2014). As part of the initiatives a task force focusing on trafficking for forced labour will be established. CMM will be responsible for the group where relevant authorities and other stakeholders will participate. The aim of the task force is among other things to exchange knowledge on identification of potential victims of trafficking for forced labour.

Moreover, the outreach work to identify potential victims of forced labour will be improved and further systematized.

In addition please note that according to the Danish National Police guidelines on trafficking, women who are met in the environment surrounding prostitution are generally in a vulnerable situation and in need of support and guidance even though they are not identified as victims of trafficking. In cases where there is doubt regarding the persons status as victim of trafficking the person is given the benefit of the doubt and must be offered support and help.

In addition the guidelines state that the police must consider every – Danish as well as foreign – prostitute as potential victims of criminal offences.

Furthermore victims of trafficking are to be informed about their rights and the possibilities of support and help available to them in Denmark. The victims must also be informed about their situation. CMM is in this connection responsible for coordinating cooperation between the police and NGOs.

Also, please see comments to para. 116 and 171.

Paragraph 135:
The Danish National Police and CMM exchange general knowledge about trafficking tendencies.

It will, however, be undesirable to disseminate police guidelines in consideration of the investigations of concrete criminal cases. Please note that police guidelines differentiate from CMM guidelines, in as such that police guidelines focus on information and evidence needed in potential criminal proceedings.

Paragraph 140:
According to information from the DIS, 28 (of 33) victims of trafficking were granted a reflection period in 2010.

Paragraph 141:
It is important to note that the reflection period only applies to trafficked foreigners who do not fulfil the conditions for – or apply for – a residence permit and therefore have to leave Denmark. The "ordinary" reflection period can be prolonged up to a total of 100 days, if the person in question accepts the offer of a prepared return and cooperates with the Danish authorities in planning this. The purpose of the offer is to ensure the person in question a well planned return and reintegration in the country of origin and to provide her/him with a foundation for a life free from the trafficking.

Paragraph 144 and 145:
Please note that the 30 days reflection period is a prolonged deadline for leaving Denmark which is granted after rejection of residence permit if applied – this means after it has been decided whether the foreigner can stay in Denmark. The 30 days reflection period is not a temporary residence permit.
Furthermore, it should be noted that the offers of aid and assistance in the Aliens Act aim at helping and strengthening each person, help her/him to escape the influence of the traffickers and through that seek to minimize the risk of re-trafficking. Therefore, these offers are not conditional of whether the person in question cooperates in criminal procedures etc.

Paragraph 146:
According to the Aliens Act, Section 9 b (1), a residence permit on humanitarian grounds can be granted to a foreign national who is a registered asylum-seeker in the country when significant humanitarian considerations warrant it. When making this assessment, the Ministry of Refugee, Immigration and Integration Affairs places emphasis on the applicant's personal situation. The majority of such residence permits are granted to applicants who suffer from serious physical or psychological illness. In this context, the Ministry also assesses whether the applicant can receive the necessary treatment for his/her illness in the country of origin. However, the Ministry also takes into account a variety of other considerations regarding the applicant's personal situation when deciding upon individual cases of humanitarian residence permit, including for instance whether the applicant comes from an area with extremely difficult living conditions, as well as the applicant's subjective fear to return to his/her country of origin.

In 2010, the Ministry granted a total number of 111 humanitarian residence permits. Based on a manual review of a summary of these decisions, it appears that none of the humanitarian residence permits in 2010 were granted solely on the grounds of the applicant being a victim of trafficking.

Paragraph 148:
A trafficked foreigner who risks persecution in his/her home country can be granted asylum if the foreigner falls within the provisions of the Convention relating to the Status of Refugees (28 July 1951), cf. section 7 (1) (convention status) in the Danish Aliens Act, or if the foreigner risks death penalty or being subjected to torture or inhuman or degrading treatment or punishment in case of return to his/her country of origin, cf. section 7 (2) (protected status) in the Aliens Act. Residence permit on humanitarian grounds can be granted, if significant humanitarian considerations warrant it, for example if the said person suffers from a serious physical or psychological illness. Residence permit can also be granted, if exceptional reasons make it appropriate. Besides this, (renewable) temporary residence permits may be granted to trafficked foreigners if the said persons' stay in Denmark is necessary regarding criminal investigations or proceedings.

As the ordinary rules in the Aliens Act already take the situations mentioned in Article 14 of the Convention into consideration, no need is found for providing the Aliens Act with a specific rule.

Paragraph 150:
[The text in bold indicates our specific adjustments and additions to the drafted text.]

"There **are also drop-in centres in Copenhagen and Fredericia and 2 mobile health units run by CMM** where **potential** victims can get information, including …..etc."

The Danish Prostitution Centre is not an NGO, but part of The National Board of Social Service.

Paragraph 151:
It is part of the third NAP to improve the information and guidance to victims on how they can explore the options to stay legally in Denmark if they fear the reaction from traffickers in their country of origin.

All identified victims of trafficking in human beings who fall under the provision of the DIS have access to the same level of support and assistance regardless of whether they apply for asylum or not.

Paragraph 153:
Such a paper is at present in progress.

All identified victims of trafficking in human beings who fall under the provision of the DIS have access to the same level of support and assistance regardless of whether they apply for asylum or not.

Paragraph 156:

It is not correct that the overall focus of social assistance measures during the second NAP (2007-2010) was placed on activities to improve the prepared return of victims. Of the DKK 83.2 million used to implement the second NAP, DKK 66.2 million was transferred to CMM (established end of 2007). The Centre has three executive goals:

- To improve the social assistance offered to victims of human trafficking.
- To coordinate collaboration between social organizations and other public authorities.
- To collect and convey knowledge in the field of human trafficking.

For these funds among other the special crisis centre for victims of THB is financed, the drop-in centres, the running healthcare units, the outreach work, the assistance during the reflection period (psychological, juridical, healthcare, etc).

Paragraph 158:
52 victims of trafficking were identified in 2010.

Two minor victims were identified in 2010: 1 girl, 15 years old (from Zimbabwe) and 1 boy (16 years old from Romania).

They were accommodated in the Danish asylum system and received different kinds of assistance (social, psychological and health-related assistance and services), support and counselling from Red Cross staff.

None of these minors got a prepared return; the girl disappeared and the boy was voluntarily returned back home with assistance from the Danish police.

Of the 33 victims of trafficking in human beings identified by the DIS in 2010, 29 received assistance.

Paragraph 161:
[The text in bold indicates our specific adjustments and additions to the drafted text.]

"There are three shelters for women victims of violence in Denmark, **one run by the Nest International, one run by the Red Cross and one run by LOKK…"**

In 2010 9 persons (of the victims identified by CMM) were accommodated in the above mentioned shelters for women victims of trafficking.

Paragraph 162:
Foreign nationals under the provision of the DIS who have not applied for asylum may also be accommodated in asylum centres.
Satisfactory accommodation for children residing illegally is already in place through agreements with the Red Cross. For child victims residing legally an agreement has been made with the municipality of Copenhagen to place potential victims in satisfactory centres within the municipality. For male victims it is part of the third NAP to establish agreements with specific centres in Copenhagen. This is in progress. With the low numbers of registered male and/or child victims specialised centres will not be developed. But personnel at the centres receiving victims will be trained.

Paragraph 164:
Besides The CMM's safe shelter for women and the use of Red Cross accommodations, the CMM has an agreement with the City of Copenhagen which can provide accommodation facilities for children. An agreement for accommodation for men with the City of Copenhagen is in progress.

Paragraph 167:
All school-aged children staying legally or illegally in Denmark for a minimum period of six months are subject to compulsory education under the provisions of the Public School Act (*folkeskoleloven)*. This also applies to (unaccompanied) minors who are identified as victims of trafficking in human beings. In practice, however, school-aged children who are under the provision of the Danish Immigration Service are enrolled in primary or lower secondary education immediately following their accommodation in an asylum centre, crisis centre or other appropriate form of accommodation financed by the Danish Immigration Service.

Paragraphs 169 and 171:
Asylum seekers and foreign nationals without legal stay in Denmark do not have access to the labour market. Though, all asylum seekers and foreigners without legal stay are supported by the DIS and, among other things, the support covers schooling and other activities. Trafficked foreigners are offered extended assistance and support, and the IOM/DIS program regarding prepared returns, cf. the remarks concerning paragraph 80 above, deals among other things with education, "on the job"-training etc. depending on the individual needs and capacity of each person aiming at providing him/her with a foundation for supporting themselves in the country of origin.

Paragraph 176:
The report is incorrect in stating that victim compensation in Denmark is reserved for Danish nationals and EU nationals with permanent residence in Denmark. Pursuant to Section 1(1) of the Danish State Compensation to Victims of Crime Act (*offererstatningsloven*), the territory of the scene of the crime (Denmark) is the decisive factor, and not the victim's nationality. Nor is the offender's nationality of any importance either.

Pursuant to Section 1(3) of the State Compensation to Victims of Crime Act, compensation is moreover, in special situations, awarded for injury inflicted by acts committed outside Danish territory if the victim is a Danish resident or a Danish national or was in the service of a Danish foreign mission abroad at the time of the offence. Compensation may also be awarded where any such acts are committed against a victim residing in Denmark, but pursuing his trade or profession outside Danish territory.

Paragraph 177:
The Board observes that the Board will disregard the 72-hour time-limit for reporting the offence to the police if a judgment has been passed in the case. Likewise, the Board usually also grants exemption from the time-limit for reporting the offence if the offender is known.

The Board additionally observes that, in the cases where a judgment has been passed, the two year time-limit stipulated by Section 13 of the State Compensation to Victims of Crime Act is reckoned from the date when the judgment becomes final. If the police have investigated the case without subsequently instituting criminal proceedings, the time-limit is reckoned from the date of the decision by the police to discontinue the investigation.

Paragraph 178:
Applications for compensation as a result of trafficking in human beings have not previously been registered separately by the Criminal Injuries Compensation Board. However, the Board estimates that it received about ten applications for compensation in 2010 as a result of trafficking in human beings, and that compensation for injury to the victim's feelings in the order of DKK 10,000-50,000 was awarded in that connection in some of the cases.

The Board observes at the same time that as from 2011 the Board has changed its registration procedure so applications from victims of trafficking in human beings will be registered separately by the Board in future.

The Copenhagen Police only has information regarding own cases. In 2010 the Copenhagen Police had 2 cases where the victims of THB were awarded compensation by the offenders for “injuries to feelings” (*tortgodtgørelse*):

1) Judgment of 19 March 2010 from the City Court of Copenhagen where 2 offenders were convicted of THB in relation to 1 Romanian woman who had been used as a prostitute. The victim was awarded DKK 40.000 in compensation by the offenders.
2) Judgment of 22 December 2010 from the City Court of Copenhagen where 9 offenders were convicted of THB in relation to 8 Romanian women who had been used as prostitutes. One of the victims testified in court and was awarded DKK 25.000 in compensation by the offenders. One of the offenders has appealed the judgment and her case is still pending before the High Court of Eastern Denmark.

The office of the Director of Public Prosecutions has no statistical data on compensation awarded to victims of THB in 2010.

Paragraph 181:
The Criminal Injuries Compensation Board wishes to draw attention to the fact that the police provide guidance to victims and hand them an application form when they are interviewed by the police. (Guidelines, application form and the text of the Act are also available in English at the website of the Criminal Injuries Compensation Board.)

Paragraph 182:
Section 1(1) of the Act applies to all criminal offences committed in Denmark regardless of the nationality of the victim or the offender. Please also see the comments regarding para. 176.

Paragraph 185:
Both adult and unaccompanied minor asylum seekers have their asylum cases thoroughly processed by the DIS and in case of rejection by the Refugee Board.

Furthermore specific rules in the Aliens Act apply to unaccompanied minors. In case of final rejection the DIS assesses automatically whether residence permit should be granted as the minor will be placed in an emergency situation upon a return to his country of origin, as he/she does not have a social network in the home country or the possibility of staying in a reception centre.

Paragraph 188:
As part of the third NAP an external evaluation of the prepared return is planned to be conducted during 2011.

Paragraph 190:
Cf. the comment to paragraph 185 above.

Paragraph 191:
The CMM is constantly making efforts to improve the quality of care and services offered to identified victims of trafficking in Denmark. This includes making more choices available for victims with regards to return and reintegration with the ultimate goal of being able to ensure safe return and successful reintegration.

A key challenge is to strengthen linkages between countries of origin and destination and develop a model of more direct transnational collaboration and coordination among organisations. With this in mind the CMM in the spring of 2011 carried out a series of visits/study-tours to selected organizations (both GO & NGO) that are providing assistance to VoTs who might be returned from Denmark. Those countries where Nigeria, Italy, Spain and Romania.

The goal where also to establish better direct contact between staff of relevant organisations and CMM staff, with the aim of being able to collaborate direct and efficiently on a case to case basis.

Collected knowledge, information materials, videos, etc. will be finalized in August/September 2011.

This includes development of concrete information materials for social organisations AND victims of trafficking in Denmark about services and possibilities in the country of origin.

Paragraph 195:
It is wrongfully stated in the report that the Director of Public Prosecution is considering a revision of Section 262(a). The answer by the Ministry of Justice to Parliamentary Question no. 604, of 10 March 2011, which is referred to in the draft report, mentions only a revision of the paragraph concerning Section 262(a) in the Director of Public Prosecution's Instruction No. 9/2005, not a general revision of Section 262(a) as such.

However, the Ministry of Justice in currently preparing a legislative proposal for the amendment of Section 262 A of the Criminal Code with regard to the maximum penalty and exploitation for begging or criminal activities in order to bring Danish legislation in line with the new EU directive. The legislative proposal is expected to be presented to the Parliament later on in 2011.

Paragraph 196:
Section 5(2) of the Passport Act, together with the Danish Criminal Code's general rules on attempt and complicity, is adequate for article 20 of the Convention.

Also, Sections 171 and 174 of the Criminal Code might be relevant:

> "**171.** (1) A person who makes use of a false document with intent to deceive in a legal relationship shall be guilty of forgery of documents.
> (2) A document is a written or electronic statement bearing the name of the issuer which appears to be intended to serve as evidence.
> (3) A document is forged if it does not emanate from the issuer indicated by it or if it has been provided with any content that does not originate from the issuer.
>
> **174.** A person who uses a genuine document in a legal relationship as if it relates to a person other than the person to whom it actually relates, or in any other way that is contrary to the purpose intended for the document, shall be liable to a fine or imprisonment for any term not exceeding six months."

Please see the comments regarding para. 197 below.

Paragraph 197:
The office of the Director of Public Prosecutions has no knowledge of cases in which Section 59(5) (now Section 59(7)) of the Aliens (Consolidations) Act has been applied to the offence of THB. However, in case number 3.4 in the enclosed summary, the offender had provided the victim of THB with a false passport and was therefore also convicted of forgery (Section 171 of the Criminal Code).

Paragraph 198:
Section 306 was incorporated into the Criminal Code in 2000, but at the time the criminal liability of legal persons was limited to violations of specified provisions of the Criminal Code. Section 306 was amended in 2001 and 2002, each time extending the applicability of the provision. Since 2002, Section 306 establishes criminal liability for legal persons for the violation of any provision in the Criminal Code.

The general purpose of establishing criminal liability of legal entities was to create a deterrent effect and to place the liability where most suitable, namely with the legal entity.

According to Section 306 of the Criminal Code, legal persons may be held liable for violations of the Criminal Code, including Section 262 A on THB, if the general conditions set out in Chapter 5 of the Criminal Code are met.

Criminal liability of a legal person is conditional upon a transgression having been committed within the establishment of this person at the fault of one or more persons connected to this legal person or at the fault of the legal person himself.

A legal person may be punished by a fine, if such punishment is authorized by law or by rules pursuant thereto.

The office of the Director of Public Prosecutions has no knowledge of criminal proceedings against legal persons in relation to THB.

Paragraph 199:
The report is expected in 2012, and currently no further information on the process has been made public.

Also, *Cypriot authorities* should be *Danish authorities*.

Paragraph 200:
In relation to aggravating circumstances, Section 81 of the Criminal Code – and not Section 84 – applies to criminal cases on THB. As an example of aggravating circumstances the Director of Public Prosecutions can refer to the case mentioned under paragraph 49 (case number 1.1 in the enclosed summary of case law). In this case the offender had previously been convicted of THB, which was an aggravating circumstance and he was sentenced 3 ½ years' imprisonment.

Paragraph 201:
Information on the issue of confiscation, including an indication of what assets and proceeds have been confiscated in cases of THB, is requested. The Copenhagen Police can supply the following examples:

1) Judgment of 11 December 2008 from the City Court of Copenhagen where 2 offenders were convicted of THB and an amount of DKK 20.000 was confiscated from each of them as their estimated illegal earnings.
2) Judgment of 19 March 2010 from the City Court of Copenhagen where 2 offenders were convicted of THB and an amount of DKK 135.000 was confiscated from each of them as their estimated illegal earnings.
3) Judgment of 4 January 2011 from the Court of Frederiksberg where 3 offenders were convicted of THB and an amount of DKK 50.000 was confiscated from 2 of them as their estimated illegal earnings and an amount of DKK 497.500 was confiscated from the third offender as his estimated illegal earnings. One of the offenders has appealed the judgment and his case is still pending before the High Court of Eastern Denmark.

The office of the Director of Public Prosecutions has no statistical data on confiscation of assets and proceeds in cases of THB.

Paragraph 203:
Generally, victims of THB are not prosecuted for their involvement in unlawful activities to the extent that it was a direct consequence of their situation as trafficked persons. Case law shows that if a person has been convicted of using a false passport and this person afterwards is identified as a victim of THB, the court's decision of expelling the person from Denmark has been overturned."

Paragraph 207:
The Danish government has just released a new action plan against trafficking in human beings. The action plan addresses among other things the importance of not re-victimizing victims of trafficking, including the possibility of not sanctioning criminal offences committed by victims of trafficking as a result of being trafficked e.g. falsifying id-documents etc.

Paragraph 212:
CMM published a report in 2010 about Au Pairs in Denmark (2010). The report found very few indicator of trafficking and the Danish National Police have no reasons to assume that these conditions have changed or worsened.

Please note that two reports by CMM regarding forced labor in the agricultural sector and in the cleaning business currently is under preparation.

Paragraph 213:
The Danish National Police have earmarked resources to collect relevant knowledge about forced labor. As forced labor currently is found to be of a very limited extent in Denmark, the Danish National Police finds no need for an enforced police effort in this area.

However, please note that the Danish police have a widely founded cooperation with the labour market in Denmark and other relevant parties and government bodies ensuring an efficient police effort against illegal work and any other criminal offences as a consequence hereof.

Paragraph 216:
In relation to para. 216 regarding the statement that the limited legal stay granted to victims of THB does not seem enough to guarantee the presence of victims at criminal proceedings and the possibility for them to initiate claims for compensation and redress, the Copenhagen Police would like to point out that there are possibilities for the victims to return to Denmark to testify before the court during the criminal proceedings and that a claim for compensation may also be presented during the criminal proceedings without the victim being present, for instance by a legal counsel appointed to assist the victim. The Copenhagen Police has had two cases where one of the victims returned to Denmark to testify before the court of first instance. Upon request from the prosecutor, the court paid for the air fare for the victim as well as for a companion (in one case a companion from a local NGO helping victims of THB upon their return and in the other case a companion from a local women's shelter supporting victims of THB upon their return). The court also paid for their hotel and meals during their stay. The judgment in one of the cases has been appealed and is presently pending before the High Court of Eastern Denmark and the prosecution is currently arranging for the victim to return to Denmark again to testify before the High Court under the same conditions which the victim has indicated her willingness to accept.

It should be noted that temporary residence permits may be granted to trafficked foreigners, whose stay in Denmark is necessary regarding criminal investigations or proceedings.

Paragraph 217:
The Danish Security and Intelligence Service will on principal grounds and in consideration of the persons protected under the witness protection program not inform of the number of persons under protection and the reasons why protections of this sort is necessary.

As such the number of victims of trafficking in witness protection cannot be informed.

Paragraph 220:
In 2010 13 persons were charged with trafficking under the Danish Criminal Code section 262 a, and 11 convictions were passed.

In 2010 sentences ranging from 1 years and 2 months to 3 years imprisonment have been imposed for trafficking by the Danish courts.

None of the cases in 2010 involved under aged victims.

Paragraph 221:
The police efforts against trafficking in human beings are continued as in previous years. The effort is, however, from 2011 anchored in the local police districts and based on an assessment of the local conditions and crime situation.