



GRETA
GROUP OF EXPERTS
ON ACTION AGAINST
TRAFFICKING IN HUMAN BEINGS

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

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Preamble

The Group of Experts on Action against Trafficking in Human Beings (GRETA) has been set up pursuant to Article 36 of the Council of Europe Convention on Action against Trafficking in Human Beings ("the Convention"), which entered into force on 1 February 2008. GRETA is composed of 15 independent and impartial experts coming from a variety of backgrounds, who have been selected on the basis of their professional experience in the areas covered by the Convention. The term of office of GRETA members is four years, renewable once.

GRETA is responsible for monitoring the implementation of the Convention by the parties and for drawing up reports evaluating the measures taken by each party. In accordance with Article 38, paragraph 1, of the Convention, GRETA evaluates the implementation of the Convention following a procedure divided into rounds. At the beginning of each round, GRETA selects the specific provisions on which the evaluation procedure is to be based and defines the most appropriate means to carry out the evaluation. GRETA adopts a questionnaire for each evaluation round which serves as the basis for the evaluation and is addressed to all parties.

The first evaluation round was launched in February 2010 and the questionnaire for this round was sent to the parties according to a timetable adopted by GRETA, which reflected the time of entry into force of the Convention for each party. GRETA organised country visits to all parties in order to collect additional information and have direct meetings with relevant actors, both governmental and non-governmental.

Following the first round of monitoring, which provided an overview of the implementation of the Convention by each party, GRETA launched the second evaluation round of the Convention on 15 May 2014. During this new evaluation round, GRETA has decided to examine the impact of legislative, policy and practical measures on the prevention of trafficking, the protection of the rights of victims of trafficking, and the prosecution of traffickers. The adoption of a human rights-based approach to action against trafficking in human beings remains at the centre of the second evaluation round. In addition, particular attention is paid to measures taken to address new trends in human trafficking and the vulnerability of children to trafficking. The questionnaire adopted by GRETA for the second evaluation round is sent to all parties which have undergone the first evaluation round, following a timetable approved by GRETA.

GRETA's reports are based on information gathered from a variety of sources and contain recommendations intended to strengthen the implementation of the Convention by the party concerned. In its recommendations, GRETA has adopted the use of three different verbs - "urge", "consider" and "invite" - which correspond to different levels of urgency of the recommended action for bringing the party's legislation and/or practice into compliance with the Convention. GRETA uses the verb "urge" when it assesses that the country's legislation or policy are not in compliance with the Convention, or when it finds that despite the existence of legal provisions and other measures, the implementation of a obligation of the Convention is lacking. In other situations, GRETA "considers" that it is necessary to make improvements in order to fully comply with an obligation of the Convention. By "inviting" a country to pursue its efforts in a given area, GRETA acknowledges that the authorities are on the right track.

As regards the procedure for the preparation of reports, GRETA examines a draft report on each party in a plenary session. The process of confidential dialogue with the national authorities allows the latter to submit, within two months, comments on GRETA's draft report with a view to providing additional information or correcting any possible factual errors. These comments are taken into account by GRETA when establishing its final report. The 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 GRETA's report, together with eventual comments by the party concerned, is made public and sent to the Committee of the Parties to the Convention.

List of acronyms

AVIM	Aliens, Identification and Human Trafficking Units
CC	Criminal Code
CPC	Criminal Procedure Code
CCV	Centre for Crime Prevention and Safety
COA	Central Agency for the Reception of Asylum Seekers
COSM	Category-oriented Shelters for Victims of Human Trafficking
EMM	Expertise Centre on Human Trafficking and People Smuggling
EVIM	National Centre of Expertise on Aliens, Identification and Human Trafficking
FNV	Netherlands Trade Union Federation
DT&V	Repatriation and Departure Service
IND	Immigration and Naturalisation Service
SZW	Labour Inspectorate under the Ministry of Social Affairs and Employment
KMar	Royal Netherlands Marechaussee (Military Constabulary)
LOSM	National Meeting of THB specialists
LIEC	National Information and Expertise Centre
OM	Public Prosecution Service
RIEC	Regional Information and Expertise Centres
SOM	<i>Strategisch Overleg Mensenhandel</i> (Strategic Meeting on Human Trafficking)
SSR	Training and Study Centre for the Judiciary
VNG	Association of Netherlands Municipalities

I. Introduction

1. The first evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings ("the Convention") by the Netherlands took place in 2012-2013. Following the receipt of the Netherlands' reply to GRETA's first questionnaire on 4 June 2012, a country evaluation visit was organised from 3 to 7 June 2013. The draft report on the Netherlands was examined at GRETA's 18th meeting (4-8 November 2013) and the final report was adopted at GRETA's 19th meeting (17-21 March 2014). Following the receipt of the Dutch authorities' comments, GRETA's final report was published on 18 June 2014.¹

2. In its first report, GRETA welcomed the steps taken by the Dutch authorities to develop the legal and institutional framework for action against trafficking in human beings, including the multi-agency co-operation at national and local level, the appointment of a National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children, the setting up of specialised structures and the training provided to relevant actors. GRETA considered that the authorities should strengthen their efforts to discourage demand for the services of victims of trafficking, for all forms of exploitation, in partnership with the private sector and civil society. Given that identification of victims of trafficking was in the sole hands of law enforcement agencies, GRETA urged the Dutch authorities to strengthen multi-agency involvement in the decision-making process leading to the identification of victims of trafficking. Further, GRETA stressed the importance of placing the assistance and protection of possible victims at the heart of the identification procedure and not linking the identification and assistance to the prospects of the investigation and prosecution. GRETA stressed the need to ensure that presumed victims of trafficking can fully enjoy the right to a recovery and reflection period in order to recover from the exploitative situation and that, in practice, victims can benefit from the right to obtain a renewable residence permit when they are unable to co-operate with the authorities. Moreover, GRETA called on the authorities to ensure that victims having committed an offence under the influence of traffickers are not barred from obtaining a residence permit.

3. On the basis of GRETA's report, on 7 July 2014 the Committee of the Parties to the Convention adopted a recommendation to the Dutch authorities, requesting them to report back on the measures taken to comply with this recommendation by 2 January 2017.² The report submitted by the Dutch authorities was considered at the 20th meeting of the Committee of the Parties (10 March 2017). The Committee of the Parties decided to transmit the authorities' report to GRETA for consideration and to make it public.³

4. On 1 February 2017, GRETA launched the second round of evaluation of the Convention in respect of the Netherlands by sending the questionnaire for this round to the Dutch authorities and asking them to submit their reply by 3 July 2017. The Netherlands submitted its reply on 19 September 2017.⁴

¹ Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Netherlands, GRETA(2014)10, available at: <http://rm.coe.int/1680632199>

² <http://rm.coe.int/1680632197>

³ <http://rm.coe.int/16807006cf>

⁴ <http://rm.coe.int/greta-2017-32-rq2-nld-en/16807612ba>

5. In preparation of the present report, GRETA used the reply to the questionnaire by the Dutch authorities, the above-mentioned report submitted by them to the Committee of the Parties and information received from civil society. An evaluation visit to the Netherlands took place from 11 to 15 December 2017 in order to hold meetings with relevant actors, collect additional information and assess the practical implementation of adopted measures. The visit was carried out by a delegation composed of:

- Mr Ola Laurell, member of GRETA;
- Ms Dorothea Winkler, member of GRETA;
- Mr Mats Lindberg, Administrator in the Secretariat of the Convention.

6. During the visit, the GRETA delegation met the Secretary of State for Justice and Security, Mr Mark Harbers, and officials from the Ministry of Justice and Security, the Ministry of Health, Welfare and Sport, the Ministry of Foreign Affairs, the Ministry of Education, Culture and Science, the Ministry of the Interior and Kingdom Relations, the Ministry of Social Affairs and Employment, the Public Prosecution Service, as well as a judge from the District Court of Amsterdam. Further, the GRETA delegation met representatives of the National Police, the Royal Netherlands Marechaussee (KMar), the Inspectorate SZW, the National Information and Expertise Centre (LIEC), the Immigration and Naturalisation Service (IND), the Central Agency for the Reception of Asylum Seekers (COA), the Expertise Centre on Human Trafficking and People Smuggling, the Police Academy, and the Violent Offences Compensation Fund. Discussions were also held with representatives of the Office of the National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children. Moreover, GRETA met representatives of the municipal authorities of the cities of Rotterdam and The Hague.

7. Separate meetings were held with representatives of non-government organisations (NGOs), the FNV Trade Union Federation and an association representing persons engaged in prostitution. Discussions were also held with representatives of the United Nations High Commissioner for Refugees (UNHCR), the United National Children's Fund (UNICEF) and the International Organization for Migration (IOM).

8. In the course of the visit, the GRETA delegation visited a shelter for male victims of trafficking, a shelter for girl victims of "pimp boyfriends" and a protected shelter for foreign child victims of trafficking.

9. The list of the national authorities, NGOs and other organisations with which the delegation held consultations is set out in the Appendix to this report. GRETA is grateful for the information provided by them.

10. GRETA wishes to place on record the co-operation provided by the Dutch authorities and in particular by the contact person appointed by them to liaise with GRETA, Ms Evelien Pennings, Senior Policy Officer at the Ministry of Justice and Security.

11. The draft of the present report was approved by GRETA at its 31st meeting (19-23 March 2018) and was submitted to the Dutch authorities for comments on 19 April 2018. The authorities' comments were received on 20 June 2018 and were taken into account by GRETA when adopting the final report at its 32nd meeting (8-13 July 2018). The report covers the situation up to 13 July 2018; developments since that date are not taken into account in the following analysis and conclusions. The conclusions summarise the progress made since the first report, the issues which require immediate action and the other areas where further action is needed (see pages 50-53).

II. Main developments in the implementation of the Convention by the Netherlands

1. Emerging trends in trafficking in human beings and types of exploitation

12. The Netherlands is predominantly a country of destination of victims of trafficking in human beings (THB), but also to an increasing extent a country of origin as well as a country of transit. According to data provided by the authorities, 1,120 presumed victims of trafficking were detected in 2013, 1,256 in 2014, 1,150 in 2015 and 952 in 2016.⁵ Approximately 80% of the victims were female. The number of presumed child victims of THB identified in the period 2013-2016 was 1,053; there has been a trend towards more child victims of Dutch nationality being identified, including an increasing number of children with intellectual disabilities. About 75% of the presumed victims were trafficked for the purpose of sexual exploitation; the remaining 25% were subjected to other forms of exploitation (labour exploitation, forced criminality, forced marriage). About 30% of the victims were Dutch citizens. The majority of the foreign victims originated from EU countries (Romania, Bulgaria, Poland and Hungary), followed by victims originating from countries in Africa and Asia. While data on presumed victims of THB identified in 2017 has been collected by the NGO CoMensha (see paragraph 48), it has not yet been processed and published by the National Rapporteur's Office and is expected to be will be officially available in the autumn of 2018.

13. According to the Dutch authorities, the decrease in the number of presumed victims of THB identified over the years can be attributed to the far-reaching reorganisation of the police, which started in 2012 and resulted in a considerable staff turnover,⁶ as well as the political decision on new priorities for law enforcement agencies as a result of the increased arrival of migrants and asylum seekers and the rise in terrorist threats.

14. GRETA notes that the scale of human trafficking in Netherlands is probably higher than the above-mentioned figures of presumed victims suggest. In September 2017 the Dutch National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children and the United Nations Office on Drugs and Crime (UNODC) published an estimate of the extent of human trafficking in the Netherlands, according to which the estimated annual number of victims of human trafficking is around 6,250.⁷ The report notes that child victims and victims of exploitation other than sexual are less likely to be detected.

2. Developments in the legal framework

15. The legal framework relevant to action against THB remains largely as it was described in the first GRETA report.

16. The responsibility for providing assistance to victims of THB was affirmed as belonging to the municipalities in 2015, through amendments to the Social Support Act and the Child and Youth Act.

17. The Netherlands ratified the 2014 Protocol to the ILO 1930 Forced Labour Convention in August 2017, which will enter into force in respect of the Netherlands on 8 August 2018.

⁵ The statistics on presumed victims of THB have been revised following a Supreme Court ruling of 17 May 2016 according to which criminal acts can only be punishable as human trafficking when they are committed under circumstances that presume coercion or exploitation, which is not the case of the offence under Article 273f, paragraph 1, subparagraph 3 of the CC. This led to a decrease in the initial number of identified presumed victims (by 150 to 300 per year) as cases falling under Article 273f, paragraph 1, subparagraph 3, of the CC. which excludes the use of means, do not comply with the definition of THB as included in the Council of Europe Convention on Action against Trafficking in Human Beings.

⁶ See paragraph 27 of GRETA's first report on the Netherlands.

⁷ <https://www.dutchrapporteur.nl/current/news/reliable-estimate-reflects-true-numbers-of-victims-of-human-trafficking.aspx>

18. On 19 December 2014, the Netherlands declared that, in addition to the Kingdom in Europe, it accepts the Convention on Action against Trafficking in Human Beings for Aruba.

3. Developments in the institutional framework

19. In 2014 the composition of the Task Force on Human Trafficking,⁸ which was set up with the task to promote an integrated approach towards THB, identify problematic areas and make policy proposals, was expanded to include the Association of Netherlands Municipalities (VNG), the National Information and Expertise Centre (LIEC) and the Youth Care authorities. Further, in November 2016, a member of the Strategic Meeting on Human Trafficking (see paragraph 248) joined the Task Force. In 2017 the mandate of the Task Force was extended for another three years. The Task Force is expected to focus on new forms of THB, such as trafficking for the purpose of criminal activities, and examine the linkages between THB and migrant smuggling.

20. Regular meetings of what the Dutch authorities refer to as the "Sounding Board" (*klankbordgroep*) have been held to exchange information and important developments related to THB. The "Sounding Board" does not have a formal status and was initially set up to discuss the establishment of a National Referral Mechanism (see paragraph 107). It comprises representatives of the Ministry of Justice and Security, the Ministry of Health Welfare and Sport, the Ministry of Foreign Affairs, the National Police, the Inspectorate SZW, the Immigration and Naturalisation Service (IND), the Violent Offences Compensation Fund, the Association of Netherlands Municipalities, Victim Support the Netherlands, *Veiligheidshuis*⁹ Friesland, the Office of the National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children, UNICEF, and a number of NGOs, such as CoMensha and FairWork, Defence for Children, La Strada International, Centre against Child Exploitation and Human Trafficking (CKM), ECPAT, the Salvation Army, Spirit, Humanitas, Moviera, Maatschappelijke opvang den Bosch, HVO Querdo and the Nidos Foundation.

21. As noted in GRETA's first report, a large reform of the Dutch Police started in 2012, reducing the number of regional police units from 25 to 10. There is an Aliens, Identification and Human Trafficking Unit (AVIM) in each of the 10 regional police units, tasked with investigating THB offences, identifying victims of THB, as well as for other offences relating to foreigners, such as the identification of irregular migrants. In theory the AVIMs started operating already in 2013, but in reality they were only becoming fully staffed around the time of GRETA's visit in December 2017, reaching a strength of 1,182 officers, some of whom were trained in THB matters while others required further training. The AVIMs work closely together with other governmental agencies, such as the Royal Netherlands Marechaussee (KMar) and the Labour Inspectorate (SZW) which also investigate THB cases, as well as NGOs. They are supported by the national Centre of Expertise on Aliens, Identification and Human Trafficking (EVIM).

22. The National Expert Group on THB,¹⁰ which was formed by the designated THB specialists of the regional police units, has been replaced by the LOSM (*Landelijk Overleg Specialisten Mensenhandel*, National Meeting of THB specialists).

23. In 2017, following a motion adopted by Parliament in 2016, the National Police and the Public Prosecution Service received additional funds to strengthen the fight against THB (see paragraph 31). One million Euros was made available in 2017 and two million Euros will be available each year from 2018 onwards. These funds will be used to increase the number of police detectives certified to investigate cases of THB by 5% a year and an investment in the capacity and expertise of the Public Prosecution Service. Frontline police will be trained in recognising signs of THB and the Expertise Centre on THB and Migrant Smuggling will also be able to hire more analysts.

⁸ See paragraph 19 of GRETA's first report on the Netherlands.

⁹ *Veiligheidshuis* is a forum for co-operation between the judiciary, the health authorities and the municipal authorities as regards complex criminality issues.

¹⁰ See paragraph 27 of GRETA's first report on the Netherlands.

24. Since 2015, a national network of regional care co-ordinators of the assistance provided to victims of trafficking has been built (see paragraph 124).

25. As noted in GRETA's first report, the Dutch National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children is an independent institution formally instituted by law, with a mandate to report to the Government and Parliament on progress in the fight against human trafficking, with recommendations for improvements.¹¹ A new National Rapporteur, Mr Herman Bolhaar, was appointed in September 2017 and took up his duties in February 2018.¹²

4. National Action Plans

26. There has been no National Action Plan against THB in the Netherlands since the expiry of the previous National Action Plan for 2011-2014.¹³ Progress reports on the implementation of the National Action Plan were prepared in the spring of 2013 and 2014 respectively.¹⁴ During the second evaluation visit, GRETA was informed that a new National Action Plan against THB was expected to be ready in the first quarter of 2018. On 25 May 2018 the Government approved a letter to Parliament on the development of the new National Action Plan. Since it is important that this Action Plan is developed in close co-operation with, and supported by, all relevant partners, both governmental and non-governmental, 16 workshops are being organised before the summer to collect input from those partners. The topics of these workshops cover all aspects of THB, from the detection of signs of THB among hard to reach groups and the co-ordination of care for and reintegration of victims, to the exchange of information between care and law enforcement professionals, public-private co-operation and international co-operation. The publication of the National Action Plan is expected in the autumn of 2018. There will be no dedicated budget for the implementation of this plan, but the ministries and institutions responsible for implementing different activities will use their budgets for this purpose. **GRETA is concerned by the delay in adopting a new National Action Plan against THB and urges the Dutch authorities to adopt such a plan as a matter of priority and to support it with the necessary budgetary resources.**

27. In December 2013 the Netherlands adopted a National Action Plan on Human Rights.¹⁵ Under its chapter 4.4 entitled "Physical Integrity and Personal Liberty", reference is made to the Anti-Trafficking Task Force, shelter and care arrangements for victims of THB and the completion of a National Referral Mechanism for Victims of Trafficking.

28. Reference should also be made to the Comprehensive Action Plan on the Issue of "Pimp Boyfriends" ("*tienerpooiers*" in Dutch), which ran in the period 2011-2014. Subsequently, in 2015, the Committee Azough published a report on this issue and in 2016 practical guidelines and roadmaps were made available. Since the autumn of 2017, the Ministry of Health, Welfare and Sport and the Ministry of Justice and Security have been visiting municipalities and regions to discuss how they can tackle the problem of "pimp boyfriends".

¹¹ See paragraphs 21 and 65 of GRETA's first report on the Netherlands.

¹² <https://www.nationaalrapporteur.nl/Over/NationaalRapporteurCorinneDettmeijer/> (in Dutch)

¹³ See paragraph 19 of GRETA's first report on the Netherlands.

¹⁴ Available at: <https://www.om.nl/vaste-onderdelen/zoeken/@31698/taskforce/>

¹⁵ An English translation of the National Action Plan on Human Rights is available at: http://lib.ohchr.org/HRBodies/UPR/Documents/Session13/NL/Netherlands_Annex_InterimReport.pdf

29. The Programme against Exploitation of Roma Children was launched in 2011 and formally ended in 2016. However, the co-operation created under the programme has continued and a network of local, regional and national partners of the project has been maintained both at strategic and policy level. The partners in the network include municipalities, the Police, the Ministry of Social Affairs and Employment, the Ministry of Justice and Security, the Council for Child Protection and the Salvation Army. They meet regularly in the context of a national policy meeting on tackling exploitation of Roma children. A toolkit developed by the Programme is available on the website of the Centre for Crime Prevention and Safety (CCV), to be used by relevant professionals, including in municipalities.¹⁶

30. The Inspectorate SZW has adopted a new internal programme against THB for labour exploitation, which, however, is not publicly available.

5. Training of relevant professionals

31. The additional funds received by the National Police to strengthen the fight against THB (see paragraph 23) are largely to be used to train police staff. In 2017, the funds allowed additional training to be started for certifying 20 police detectives for investigating THB cases. Certification of police officers for investigating THB offences involves 20 days of theoretical studies and 20 days of practical training. For police officers leading THB investigations there is an additional eight-day training module. Starting in August 2018, all 35,000 National Police frontline officers are to receive half a day of compulsory training in recognising signs of THB and in passing any THB suspicions to the AVIMs. However, THB is not included as a topic in basic training of new police recruits.

32. In 2014, KMar launched a compulsory course for officers tasked with interviewing and recognising possible victims of THB. The course lasts 16 weeks and includes three weeks of class teaching, four weeks of in-service training with operational units of the KMar and civilian counterparts, and nine weeks of self-tuition and examination. The in-service training includes one week at one of the category-oriented shelters for foreign victims of THB (COSMs).¹⁷ Furthermore, as part of the basic course for KMar staff, each officer receives one day of compulsory training on combating THB. Each KMar officer has a booklet with indicators related to different punishable offences, including THB, as well as all procedures related to THB offences.

33. In 2015 and 2016 labour inspectors of the Inspectorate SZW were trained in recognising signs of THB for labour exploitation. Further training activities are on-going. While most labour inspectors of the SZW Criminal Investigation Department receive general training about THB, some undergo training at the Police Academy to become certified THB investigators, including as regards skills in how to speak to possible victims.

34. The Training and Study Centre for the Judiciary (SSR) continues to offer specialised courses on THB for judges and prosecutors. Their content is continuously updated to reflect case-law and trends. In addition to the basic and advanced courses, SSR offers one-day courses on specific themes, such as trafficking in children in 2016. A manual with practical advice on the rights of victims of THB victims, including compensation, is made available to the judiciary.

¹⁶ <https://hetccv.nl/>

¹⁷ See paragraphs 155-161 of GRETA's first report on the Netherlands.

35. Staff of the Central Agency for the Reception of Asylum Seekers (COA) are trained to recognise signs of THB. Each reception centre has two contact persons for questions regarding THB and people smuggling. These contact persons have received additional training about THB and are provided with a refreshment course twice a year. COA collaborates with the Expertise Centre on Trafficking in Human Beings and People Smuggling, KMar and the NGO CoMensha for these trainings. However, UNHCR has expressed concern about shortcomings in the identification of possible victims of THB among asylum seekers (see paragraph 115).

36. Staff members of the Nidos Foundation, which is entrusted with providing guardianship to unaccompanied and separated children, have been trained to detect signs of THB (see paragraph 144). The guardians appointed by the Nidos Foundation receive training on how to detect signs of THB and how to assess the risk of unaccompanied children absconding. Based on the guardians' assessments it is decided whether to put an unaccompanied child in a protected shelter (see paragraphs 81 and 147).

37. In 2017, the NGO CoMensha received additional funding from the Ministry of Social Affairs and Employment, part of which has been allocated for the development of a training course for the COA and the Dutch Council for Refugees.¹⁸ Further, some of the funding was used to make an inventory of educational programmes on the subject of THB at universities.

38. Most professionals working in shelters for victims of THB are social workers by training and have received training on THB. By way of example, all staff working at the COSM shelter in Amsterdam are obliged to follow a training course on anti-THB legislation. This training is given by a lawyer specialised in THB, together with a police officer from an AVIM. Every month the shelter holds a meeting about a THB topic, such as mental illness among victims or the situation of victims' children.

39. The majority of the departure supervisors of the Repatriation and Departure Services (responsible for expediting the voluntary and forced departure of foreign nationals who are not allowed to stay in the Netherlands) who are in direct contact with migrants were trained in 2016 to recognise signs of THB and what to do should such signs be observed.

40. The staff of the Custodial Institutions Agency (staff dealing with migration affairs, the medical service and the spiritual care service) are trained to recognise signs of THB among aliens in detention. Should suspicions of THB arise, staff are instructed to refer the cases to the Police. Employees of the Custodial Institutions Agency¹⁹ are also trained by the NGO FairWork.

41. In 2017 CoMensha delivered a pilot training event at the VU University Medical Centre in Amsterdam. Special attention was given to the issue of confidentiality of medical information versus the need to report possible signs of THB.

42. In 2017 KMar and CoMensha updated their 2011 bulletin, which is aimed at informing airline personnel about THB indicators. The bulletin is used in basic and further training of airline crews. In 2017 KMar trained staff of commercial airlines, who in turn trained inflight staff, on how to report any suspicions of THB to KMar. KMar has developed an e-learning module to train private companies, such as ground handling companies at airports, in detecting signs of THB and migrant smuggling.

¹⁸ <https://www.vluchtelingenwerk.nl/english>

¹⁹ See paragraph 82 of GRETA's first report on the Netherlands.

43. There is no training on THB for municipal staff across the country, but some large municipalities provide such training. By way of example, Rotterdam offers training to municipal staff on identifying signs of THB, including to staff working in front offices with various registries. In 2017 an online e-learning training on THB became available to municipal desk clerks and supervisors of all local authorities. The e-learning, which is freely available online and is expected to take 20-30 minutes to complete,²⁰ was commissioned by the Ministry of Justice and Security and developed by the Centre for Crime Prevention and Safety (CCV). The content of the e-learning is available for all municipal staff, including supervisory staff.

44. In 2012 and 2015, all front office and back office staff of the Chamber of Commerce were trained in detecting signs of THB. This training was repeated in 2017.

45. There is an on-going project between Dutch law enforcement agencies and the ABN AMRO Bank, the aim of which is to increase the knowledge of bank employees of THB, so that they will be better capable of identifying suspicious transactions which could be linked to THB.

46. GRETA welcomes the training on THB provided to an increasing range of relevant professionals in the Netherlands and the additional funding allocated to training. Nevertheless, taking into consideration the decreasing number of identified presumed victims of THB, **GRETA invites the Dutch authorities to continue their efforts to train relevant professionals, especially those of the Police, KMar, the Inspectorate SZW, medical professionals and municipal staff who may come into contact with victims of THB.**

6. Data collection and research

47. In its first report on the Netherlands, GRETA invited the Dutch authorities to continue exploring ways of encouraging all stakeholders to report presumed victims of THB to the NGO CoMensha in order to obtain comprehensive statistics on all victims in the country, including children, and to secure adequate funding for CoMensha to perform this task. GRETA also invited the Dutch authorities to continue conducting and supporting research on THB issues as an important source of information for future policy measures.

48. As noted in the first GRETA report, the NGO CoMensha registers all presumed victims of THB and receives a government subsidy for this purpose.²¹ Pursuant to Chapter B8-3 of the Aliens Act 2000 and a factsheet of the Board of Prosecutors General based on its Directive on investigating and prosecuting the crime of human trafficking, the police and the KMar are required to notify all presumed victims to CoMensha. However, other actors coming into contact with presumed victims, such as the Inspectorate SZW, NGOs, shelters, lawyers, social workers or youth care centres, are under no formal obligation to report presumed victims to CoMensha. GRETA was informed that youth care centres increasingly refrain from reporting cases of child trafficking to CoMensha on the assumption that this would violate EU data protection standards if no consent of the parents is given. More generally, there is reportedly a concern about violating EU data protection legislation among NGOs and health care staff who may come into contact with victims of THB.

49. **GRETA considers that the Dutch authorities should provide guidance to NGOs and professionals likely to come across victims of THB about the legislation on data protection in order to avoid breaches of data protection legislation and ensure that all presumed victims of THB are reported.**

²⁰ Available at: <https://hetccv.nl/onderwerpen/mensenhandel/e-learning-signalering-mensenhandel/>

²¹ See paragraph 92 of GRETA's first report on the Netherlands.

50. The National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children receives anonymised data on presumed victims from CoMensha. Data of prosecutions and trials is obtained from the Public Prosecution Service (OM) and data on residence permits from the Immigration and Naturalisation Service (IND). The collected data, including the number of presumed victims of THB, recovery and reflection periods and residence permits granted to victims of THB, is published in the National Rapporteur's reports and is made available online. However, GRETA notes with concern that there was a considerable delay in the National Rapporteur publishing the data for 2016 which, according to the Dutch authorities, was due to the process of improving data collection methods, the publication of an estimate of the number of victims of THB in the Netherlands (see paragraph 14), and temporary staff shortages. **GRETA considers that the Dutch authorities should ensure that data on THB are made available in a timely manner to serve as an evidence base for future policy measures.**

51. The Office of the National Rapporteur includes five researchers of various backgrounds who carry out research on various issues fields related to THB. Further, a significant amount of research is carried out by academic institutions and NGOs.

52. In October 2016 the Office of the National Rapporteur published a report entitled "Vulnerability up close - An exploratory study into the vulnerability of children to human trafficking".²² The report raises concerns, *inter alia*, about the position of Roma children, Syrian child brides and children living irregularly in the Netherlands and working in domestic households, some of whom are possible victims of THB.

53. A study on sexual exploitation of boys in the Netherlands and its possible links to THB was published in January 2017.²³ It concluded that while the scale of exploitations appears limited, sexual exploitation of boys tends to be even less visible than that of girls, which could mean that the extent of it is larger than estimated, the reasons why boys end up being exploited differing from those relating to girls. In the case of boys, it is often circumstances such as homelessness or abandonment by their families which force them to prostitute themselves, which then may often lead to outright exploitation.

54. The Office of National Rapporteur recently carried out an online survey through which 333 medical professionals in seven different medical occupations were questioned about their knowledge of THB. About one quarter (27.4%) of them stated that they had sufficient knowledge of THB and 22.2% stated that they had received training on THB; 50.3% had suspicions that one or more of their patients could be victims of THB.

55. In 2014 a study on illegal organ trade was presented by Erasmus MC, which co-ordinated an international study on human trafficking for the purpose of organ removal, funded by the European Commission (see paragraph 90).²⁴

56. The NGOs Jade Zorggroep²⁵ and PMW Humanitas,²⁶ which provide shelter to male victims of THB, co-operated with the NGOs FairWork and Fier on a research project to analyse the circumstances of male victims of THB for sexual exploitation. The results showed that many male victims suffer from severe psycho-social problems, but social workers seem to underestimate the consequences of the exploitation.

²² Available at:

https://www.dutchrapporteur.nl/binaries/Vulnerability%20up%20Close_interactive_National%20Rapporteur%20on%20Trafficking%20in%20Human%20Beings%20and%20Sexual%20Violence%20against%20Children_tcm24-128353.pdf

²³ Available at: <https://www.rijksoverheid.nl/documenten/rapporten/2017/05/08/tk-bijlage-1-eindrapport-seksuele-uitbuiting-van-jongens-in-nederland>

²⁴ More information available at: https://www.erasmusmc.nl/corp_home/corp_news-center/2014/2014-10/orgaanhandel.komt.vaak.voor/?lang=en

²⁵ <http://jadezorggroep.nl/?lang=en>

²⁶ <https://www.slachtofferwijzer.nl/organisatie/humanitas-prostitutie-maatschappelijk-werk/>

57. In November 2014, a multi-year study started at ZonMw (the Netherlands Organisation for Health Research and Development) into the effectiveness of the treatment of girls who were victims of THB. The results will be included in a database of the Dutch Youth Institute.

58. Further, GRETA was informed that a Master's thesis²⁷ on the profiles of "pimp boyfriends" and the methods they use has been used to create barriers to prevent "pimp boyfriends" from exploiting vulnerable girls. Moreover, the Ministry of Health, Welfare and Sport finances a research programme on the effectiveness of treatment methods for child victims of THB, including victims of "pimp boyfriends".

59. **GRETA welcomes the wide-ranging research related to trafficking in human beings in the Netherlands and invites the Dutch authorities to continue ensuring that the Office of the National Rapporteur has sufficient human and financial resources to carry out research.**

III. Article-by-article findings

1. Prevention of trafficking in human beings

a. Measures to raise awareness (Article 5)

60. In the reporting period the Ministry of Justice and Security financed campaigns run by the NGO M. (Report Crime Anonymously)²⁸ to raise awareness amongst the general public, persons engaged in prostitution, clients and social workers of THB for sexual exploitation and to encourage them to report cases of exploitation. The "Appearances Deceive" campaign of 2012-2013 was followed by another campaign on forced prostitution from June 2014 to April 2015. The awareness-raising campaigns on THB for sexual exploitation run by M. (Report Crime Anonymously) are always evaluated and the degree of their success is considered to be reflected in the number of tips or reports about possible THB received by the police. The "Appearances Deceive" campaign resulted in 297 reports, many of which were about suspected THB. Two-thirds of the reports included information not yet known to the police.

61. In September 2016 CoMensha launched a campaign to raise awareness about THB, entitled "Open Your Eyes to Human Trafficking",²⁹ which includes a publication and a travelling exhibition featuring 30 stories of victims. The exhibition makes the gravity and diversity of THB in the Netherlands visible in the public space. Members of the NGOs' Strategic Council on THB (SOM) have assisted in encouraging victims to tell their stories. Together with the care co-ordinators (see paragraph 124) they also help in bringing to the attention of the municipalities the importance of staging the exhibition in their areas. The exhibition has been staged by 14 municipalities.

62. Further, a campaign to raise awareness of THB for the purpose of labour exploitation was launched at the end of 2015 (see paragraph 66).

²⁷ An abstract of the thesis is available (in Dutch) at: <https://ccv-secondant.nl/platform/article/de-loverboy-bestaat-niet-meer/>

²⁸ <https://www.meldmisdaadanoniem.nl/english/>

²⁹ https://www.CoMensha.nl/files/box/CoMensha-BrochureENG-1015_HR.pdf

63. As noted in GRETA's first report,³⁰ the Dutch approach to preventing THB is based on the so-called "barrier model". The reasoning behind this model is to regard human trafficking as a "business" that has to overcome a number of barriers before traffickers earn money from the exploitation of victims, and the objective is to make each barrier harder for them to cross, thus making human trafficking more difficult and less lucrative. The barriers are linked to recruitment, entry, identity, housing, work and financial aspects and the municipalities play an important role in creating the barriers to trafficking. Success stories of the use of the "barrier model" for preventing organised crime, including THB, are described in a book published in 2016 by the Regional Information and Expertise Centres and the National Information and Expertise Centre.³¹

64. GRETA welcomes the awareness-raising measures undertaken in the Netherlands and considers that the Dutch authorities should continue to increase the level of general awareness and provide information on how to forward information on human trafficking to relevant institutions and help possible victims receive assistance.

b. Measures to prevent THB for labour exploitation (Article 5)

65. In its first report, GRETA invited the Dutch authorities to further strengthen their efforts against THB for the purpose of labour exploitation, including by raising awareness of it among policemen, prosecutors, judges, labour inspectors, municipalities and trade unions, as well as in high risk sectors, such as agriculture, horticulture, catering, dock work, meat processing and construction. GRETA also recommended further restricting employment contracts with benefits in kind, as well as tightening of regulations on employment agencies.

66. As noted in paragraph 62, a campaign to raise awareness of THB for the purpose of labour exploitation among the general public was launched at the end of 2015. It was financed by the Ministry of Social Affairs and Employment and included a film showing three different ways in which signs of labour exploitation can be recognised, a radio commercial and a website. The campaign was repeated in 2016, including through social media.

67. As noted in the first GRETA report, the Inspectorate SZW, in addition to supervising adherence to labour regulations, is competent to detect and investigate trafficking for the purpose of labour exploitation, under the supervision of the Public Prosecutor's Office. It also carries out preventive work by raising awareness of trafficking for the purpose of labour exploitation among employers, in particular in the sectors of agriculture, construction, hospitality and temporary employment. For example, Syrian refugees have reportedly been exploited in laundries and the Inspectorate SZW works on raising awareness among companies using the services of laundries, such as hotels. The Ministry of Social Affairs and Employment carries out preventive work by raising awareness, including by distributing brochures in various languages about working in the Netherlands and by carrying out information campaigns in countries of origin about labour migration to the Netherlands.

68. Labour inspections by the Inspectorate SZW are unannounced and may take place at any time.³² Inspectors can enter private households with permission from a judge and if there is a concrete tip-off about a violation. An additional 50 million Euros was made available for the Inspectorate SZW by the Dutch Government in 2017, which will allow the SZW to recruit some 300 more staff members and expand its operations. Approximately 75% of the additional funding will be used to expand labour inspections and criminal investigations.

³⁰ See paragraphs 58-59 of GRETA's first report on the Netherlands.

³¹ *Bundled together. Impressions of an integrated approach to organised crime.* Published by RIEC-LIEC (in English) in March 2016, available at: <https://www.riec.nl/documenten/publicaties/2015/10/01/book-bundled-together>

³² Except "major hazards" inspections which need to be pre-announced.

69. In September 2015 the Government published an Action Plan for Responsible and Sustainable Procurement for the period 2015-2020.³³ As part of it, a Manifesto on Responsible and Sustainable Public Procurement has been signed by more than 100 local and regional authorities.

70. The NGO FairWork has received a grant from the Ministry of Social Affairs and Employment for a project one of the objectives of which is to develop online tools, combined with the work of cultural mediators, to inform labour migrants about their rights, as well as another grant to work together with trade unions and companies in the prevention of the exploitation of Polish, Bulgarian and Romanian labour migrants. The FairWork website provides information in several languages to inform labour migrants about their rights, how to recognise the signs of labour exploitation (including a film) and how to reach out to FairWork.³⁴

71. According to representatives of the Dutch Trade Union Federation (FNV), there is a lack of transnational co-operation between European national labour inspectorates and many transnationally organised businesses take advantage of this. In 2016 the FNV discovered that a Dutch company had established a sham subsidiary in Bratislava, from which it directed trucks with drivers originating from Central European countries and the Philippines. Some of these drivers were living and working in very poor conditions, with little pay and working excessively long hours. Some of them did not have the required work permits, making them unwilling to approach the authorities. A few of the drivers were identified as victims of THB and were given residence permits in the Netherlands.

72. No licences are required for temporary employment agencies to operate in the Netherlands. In the reporting period there were action plans implemented by the public sector to fight rogue employment agencies and related sham arrangements in the temporary employment sector. Information exchanges between the Inspectorate SZW, the Tax and Customs Administration, the Labour Standards Foundation (a private certification scheme for employment agencies) and the Foundation for Compliance with the Collective bargaining Agreement for Temporary workers have, according to the authorities, helped to fight rogue employment agencies.

73. Preventing and combatting THB for the purpose of labour exploitation was one of the priorities of the Dutch Presidency of the European Union in the first half of 2016. On this occasion, a conference was organised in Amsterdam in January 2016 and a manual for experts on multidisciplinary co-operation against trafficking in human beings for labour exploitation was published by the Government of the Netherlands as a result of the joint project "TeamWork!" involving Luxembourg, Slovakia and Malta. The manual provides practical advice for the agencies which encounter trafficking at different stages of the process and how they can undertake joint or complementary activities to effectively combat this phenomenon.³⁵

74. In 2013, bilateral agreements were signed between the Netherlands and Bulgaria, Poland and Romania to strengthen co-operation in the field of labour migration. In 2014, three extra policy officers were appointed at the corresponding three Dutch embassies. A budget was made available for communication activities. The aim of the co-operation was to make it easier for migrant workers to get information about working and living in the Netherlands. At the time of writing, the project is still ongoing in Poland, including screenings of an information film with advice for Polish workers planning to take up employment in the Netherlands.

³³ Available at: <https://www.pianoo.nl/sites/default/files/documents/documents/netherlandsactionplanresponsibleandsustainableprocurement20152020.pdf>

³⁴ <https://www.FairWork.nu/english.html>

³⁵ Available at: <https://www.government.nl/documents/publications/2016/01/18/manual-for-experts-on-multidisciplinary-cooperation-against-trafficking-in-human-beings-for-labour-exploitation>. See also the website <https://www.teamwork-against-trafficking-for-labour-exploitation.nl/>

75. Another goal of the bilateral agreements was to strengthen the liaison function of the Dutch embassies between the Inspectorate SZW, SVB (the National Insurance Bank, which implements national insurance schemes in the Netherlands), and UWV (Employee Insurance Agency, which implements employee insurance and provides labour market and data services) and the corresponding agencies in Bulgaria, Poland and Romania.

76. **GRETA welcomes the increased resources given to the Inspectorate SZW, which can be expected to have a preventive effect on THB for the purpose of labour exploitation, as well as the various measures to prevent labour exploitation, in particular of migrant workers.**

77. **GRETA considers that the Dutch authorities should continue to sensitise relevant officials about THB for the purpose of labour exploitation and target sectors at heightened risk of THB for the purpose of labour exploitation, including the transport sector, as well as work closely with trade unions, civil society and the private sector to raise awareness of trafficking for the purpose of labour exploitation, prevent trafficking in supply chains and strengthen corporate social responsibility, drawing on the Guiding Principles on Business and Human Rights³⁶ and Recommendation CM/Rec(2016)3 on human rights and business.³⁷**

c. Measures to prevent trafficking in children (Article 5)

78. In 2016 a new preventive campaign with a focus on children engaged in prostitution, was introduced by the NGO M. (Report Crime Anonymously). The campaign, which ended in October 2016, is thought to have increased the number of anonymous tips to the authorities about abuse in the sex work sector. From February until October 2016, 279 such tips were submitted.

79. A law on due diligence for companies to prevent child labour in their supply chains has been prepared but is not yet adopted. **GRETA would like to be kept informed about the status of this draft law.**

80. Children born in the Netherlands have to be registered by their parents within three days of the birth. The municipal administration where the child is born issues a birth certificate free of charge; for an extra copy, a moderate fee is charged. Subsequently, based on the birth certificate, registration of the child takes place in the Municipal Personal Records Database. However, while there is no control of whether parents actually do register their children, there are incentives to register, such as access to health care and child financial support. The citizen service number, which is linked to registration, is necessary for enrolment in school.

81. Upon the entry of an unaccompanied child into the Netherlands, or any authority finding a migrant child in an irregular situation, the child is brought to a special application centre for unaccompanied children. At the application centre, the police, the Immigration and Naturalisation Service (IND) and the Nidos Foundation are present. The Nidos Foundation becomes responsible for the child and to this end submits an application for guardianship to the relevant court. The Nidos Foundation is authorised to represent the child's interests during the asylum procedure and may be assisted in this by a lawyer. During the admission, a first assessment is made of the risk that the unaccompanied child might abscond. On the basis of this assessment, the Nidos Foundation may decide to place an unaccompanied child in a protected shelter (see paragraph 147).

³⁶ http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

³⁷ [Recommendation CM/Rec\(2016\)3](#) of the Committee of Ministers to member States on human rights and business, adopted by the Committee of Ministers on 2 March 2016 at the 1249th meeting of the Ministers' Deputies.

82. At the beginning of 2017 a project entitled WATCH³⁸ was launched by the Centre against Child and Human Trafficking, the shelter Fier Frysland (see paragraphs 137-138) and the NGO Terre des Hommes. It develops advertisements to lure persons who are looking on the Internet for sex with children. If such persons click on an advertisement promoting sexual encounters with children, they will automatically receive an alert that they are being monitored and are potentially punishable. The goal is prevention and to make customers realise they are not alone online.

83. Legislation allowing police officers to pretend to be adolescents on the Internet with a view to identifying offenders is pending in the Senate. The aim is to stop people trying to groom children before they are able to sexually abuse them or exploit them in forced prostitution. **GRETA would like to be kept informed about the status of this legislation.**

84. In the Netherlands, there is no national education curriculum, but there are core objectives and each school is free to decide how these core objectives should be achieved. There is no training of teachers on THB. An inventory of the prevention materials available was published in February of 2017.³⁹ Care co-ordinators expressed concern to GRETA about the absence of any protocols or knowhow in schools about how to detect signs of THB, given that about one fifth of registered presumed victims of THB in the Netherlands are children. Schools in primary and secondary education are required to address sexuality and sexual diversity as themes. However, the Dutch National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children in her report "Effective Prevention – Prevention of Sexual Violence against Children by Providing Comprehensive Sexuality Education at School," noted that there was still much to be done to prevent sexual violence against children through the provision of comprehensive sexuality education.⁴⁰ Materials on the prevention of THB have been distributed to schools, municipalities and youth workers.⁴¹ Reference is also made to the Comprehensive Action Plan on the Issue of "Pimp Boyfriends" (see paragraph 28).

85. **GRETA welcomes the campaigns and projects implemented with the aim of preventing trafficking in children and considers that the Dutch authorities should take further steps to ensure that schools and education professionals play a role in preventing THB among children, including by making available relevant teaching materials.**

d. Measures to prevent trafficking in human beings for the purpose of organ removal (Article 5)

86. GRETA notes that while human trafficking for the purpose of organ removal as defined by the Convention and organ trafficking as defined by Articles 4 to 8 of the Council of Europe Convention against Trafficking in Human Organs⁴² are two distinct crimes, they bear certain similarities and share similar root causes, such as shortage of organs to meet demand for transplantation and poor economic and other conditions that put persons in a vulnerable position. Therefore, measures to prevent organ trafficking can help prevent trafficking for the purpose of organ removal and the reverse is also true.⁴³ Among the necessary preventive measures, GRETA underlines the importance of a robust and transparent domestic system for the removal and transplantation of human organs and the need for training of health-care professionals. GRETA also stresses the importance of conducting a thorough investigation of each case where there is information or suspicion of trafficking for the purpose of organ removal, paying attention to the abuse of the vulnerability of the "donor" and ensuring that "donors" are treated as victims of trafficking in human beings.

³⁸ <https://www.terredeshommes.nl/en/programmes/watch-nederland>

³⁹ https://english.wegwijzermensenhandel.nl/Support_for_under-aged_victims/Prevention/index.aspx

⁴⁰ Available at:

[https://www.dutchrapporteur.nl/binaries/BNRM-Effective%20prevention%20\(summary\).pdf_tcm24-287118.pdf](https://www.dutchrapporteur.nl/binaries/BNRM-Effective%20prevention%20(summary).pdf_tcm24-287118.pdf)

⁴¹ https://english.wegwijzermensenhandel.nl/Support_for_under-aged_victims/Prevention/index.aspx

⁴² Opened for signature in Santiago de Compostela on 25 March 2015; in force since 1 March 2018

⁴³ See "Trafficking in organs, tissues and cells and trafficking in human beings for the purpose of the removal of organs", [Joint Council of Europe/United Nations Study](#) (2009), in particular pages 55-56; "Trafficking in human beings for the purpose of organ removal in the OSCE region: Analysis and Finding", OSCE Occasional Paper No. 6 (2013).

87. Removal of organs is one of the types of exploitation listed in Article 273f of the CC.

88. Organ transplants and donations are regulated by the Organ Donation Act. Removal of an organ without consent is punishable with imprisonment or a fine under Article 32 of the Organ Donation Act. The Ministry of Health maintains a registry of expressions of informed consent or objections by donors to after-death donations. As regards donations from living donors, no compensation beyond actual expenses, such as loss of income during the time of the transplant operation, is allowed. The Health Care Inspectorate monitors the medical care and recovery of donors and recipients. The Dutch Transplant Foundation oversees the waiting lists for organ transplantations and allocates the organs according to criteria listed in the Organ Donation Act.

89. No cases of THB for the purpose of organ removal have been detected in the Netherlands. The Health Care Inspectorate, responsible for the enforcement of the Organ Donation Act, has since the end of 2014 regularly searched for online advertisements about organs for sale. This has so far resulted in four reports, all of which were dismissed, due to the mental health of the advertiser, insufficient evidence that the advertisement was placed by the suspect or insufficient proof of a financial motive.

90. According to the previously mentioned study on illegal trade in organs (see paragraph 55), 13 transplant professionals in the Netherlands reported that they were treating donors who have sold their kidneys to patients in the Netherlands and nine transplant professionals suspected human trafficking for organ removal. Three professionals reported that donors had told them that they had been forced to "donate" a kidney.

91. No training or awareness raising about THB for the purpose of organ removal has been undertaken for medical staff or other relevant professionals. Health care professionals are not obliged to report suspicions of THB to law enforcement authorities.

92. **GRETA considers that the Dutch authorities should ensure that, as part of their training, medical professionals involved in organ transplantations and other relevant professionals are sensitised about THB for the purpose of organ removal.**

93. **GRETA encourages the Dutch authorities to sign and ratify the Council of Europe Convention against Trafficking in Human Organs, which would contribute to the prevention of trafficking for the purpose of organ removal.**

e. Measures to discourage demand (Article 6)

94. In its first report, GRETA considered that the Dutch authorities should strengthen their efforts to discourage demand for the services of trafficked persons, for all forms of exploitation, in partnership with the private sector and civil society.

95. As noted in paragraph 60, the NGO M. (Report Crime Anonymously) ran a campaign to raise awareness of THB for sexual exploitation, which targeted, *inter alia*, clients of persons engaged in prostitution.

96. The 2009 Prostitution Regulation Act provides that persons engaged in prostitution must be at least 21 years old and EU nationals. Clubs and brothels offering sexual services need to be licenced. One of the goals of the law is to minimise differences in municipal and regional licencing policy because offers of sexual services will otherwise be concentrated in more permissive municipalities. There are currently 674 licenced sex businesses and some 2,000 inspections of prostitution licences are carried out by the police every year. There are discussions about transferring the administrative control of the sex work sector to the municipalities as part of the overall police reform.

97. GRETA was informed that there is a trend for sex work to be increasingly advertised through the Internet and offered in private homes. According to research by the police, there are about 28,000 advertisements online, with about 8,600 individual phone numbers attached to them. An advocacy group representative met by GRETA estimated that more than half of the sex work taking place in the Netherlands is unlicensed. There are diverse opinions on the extent to which THB occurs within the prostitution sector. In 2016, 523 possible cases of THB in the sex industry were reported to CoMensha.

98. In 2015 the Public Prosecution Services increased the priority level for prosecuting cases of customers paying for sex with children or child victims of THB. In June 2015, the Directive for Sentence Recommendations regarding Article 248b of the CC (criminalising sexual abuse of children for payment) came into force, providing guidelines for the prosecution of such customers (see paragraph 224). The National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children published a report in 2016 analysing the use of Article 248b of the CC and the possible links between paid sex with children and THB.⁴⁴ The report concluded that while there were few prosecutions based on Article 248b in the first 14 years after its introduction in the CC, the number increased dramatically as of 2015, at least partly due to increased attention by the Prosecution Service, as well as a change in public attitude towards paid sex with children.

99. In 2013 the Netherlands adopted a National Action Plan on Business and Human Rights which, while not referring explicitly to THB, addresses negative impacts in supply chains of companies and matters of corporate social responsibility. Further, in 2014 the Dutch Social Economic Council advised the Government to support the development of Responsible Business Conduct (RBC) sector agreements, allowing companies, governments at different levels, trade unions and other civil society to work together to address risks of, amongst others, child or forced labour in supply chains. The basis of the sector agreements are the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights. In this context, the Dutch Government commissioned a study to identify business sectors with heightened risks of violations of human or labour rights in their supply chains. Among the at-risk sectors identified are the textile industry, construction, metallurgy, electronics, oil and gas, agriculture and the food industry. The aim is to reach RBC sector agreements in sectors identified as being at risk of abuse. For example, the textile industry concluded a RBC sector agreement in July 2016, the banking sector in December 2016, the gold, vegetable protein and forestry sectors in 2017, and other sectors are expected to follow.

100. GRETA considers that the Dutch authorities should make further efforts to discourage demand for the services of trafficked persons, for all forms of exploitation, in partnership with the private sector and civil society, including trade unions and employers.

f. Border measures (Article 7)

101. KMar has drawn up a booklet which includes indicators for detecting victims of THB during border controls. The 2015 Frontex Handbook on THB Risk Profiles is available to all border guards. All signs of THB are reported by KMar to the Expertise Centre on Human Trafficking and People Smuggling (EMM). The EMM frequently provides information reports regarding issues on THB to the organisations of which it is composed (KMar, police, IND and SZW) and to the Prosecution Service. The KMar reports directly to CoMensha, which registers all presumed victims of THB and co-ordinates the search for possible shelter and assistance for victims.

⁴⁴ National Rapporteur on Trafficking in Human Beings and Sexual violence against Children, *Paying the price, the criminalisation of sex with 16- and 17-year olds for payment* (summary in English), 2016. Available at: https://www.dutchrapporteur.nl/binaries/Paying%20the%20Price_tcm24-245015.pdf

102. In addition to regular border control, the KMar has its own specialist team, known as the Filter Team ("Sluisteam") at Schiphol Airport. Members of this team are deployed in order to detect and take action against THB and people smuggling at an early stage. This is achieved by carrying out observations at the airport. During the period 2012-2015 similar specialist teams operated at Eindhoven and Maastricht airports. However, the influx of migrants in 2015 reduced the capacity of the KMar to maintain specialised teams at the airports, as its personnel were needed elsewhere. GRETA commends the deployment of Filter Teams at airports earlier in the reporting period and regrets their partial discontinuation.

103. KMar has investigative powers related to any offences linked to airports or fraud with travel or ID documents. As regards THB, KMar has investigative powers when executing general policing tasks at Schiphol and other designated airports. A co-operation agreement has been concluded between the National Police and the KMar regarding their respective roles in combating THB. The agreement is in force for one year from 1 December 2017, after which it will be evaluated. It provides that KMar will inform an AVIM about any suspicions of THB so that the latter can carry out the investigation, unless the case clearly falls within the KMar mandate because it, for example, has passport fraud as a major element. Since the KMar is vested with a mandate to carry out criminal investigations,⁴⁵ it has easy access to Europol channels in suspected cases of transnational THB networks. For contacts with third countries, the KMar and Police Liaison Officers' Network can be used. The European Border Surveillance system Eurosur can also be used for sharing relevant information between border agencies.

104. GRETA notes that the share of victims of THB identified by KMar has decreased over the reporting period. The identification of victims has become less of a priority, among multiple competing ones, in particular preventing and fighting terrorism. Since KMar has a very broad mandate, including deployments abroad on short notice, while being a much smaller service than the police, sudden shifts in priorities are more likely and have an impact on the attention which KMar can give to specific issues, including THB.

105. **GRETA considers that the Dutch authorities should step up their efforts to detect possible victims of THB at border crossings, including at airports, in particular at times of increased migration flows.**

2. Measures to protect and promote the rights of victims, guaranteeing gender equality

a. Identification (Article 10)

106. In its first report, GRETA noted that the police and KMar were the sole bodies responsible for determining whether a person is a possible victim of THB deserving protection within the framework of the Residence Regulation for THB.⁴⁶ GRETA urged the Dutch authorities to ensure that all victims of trafficking are identified as such and can benefit from the assistance and protection measures contained in the Convention, including by delinking identification from the prospects of the investigation and prosecution, strengthening the multi-agency involvement in the decision-making process leading to the identification of victims of trafficking, and giving a formal role in the identification process to frontline actors such as NGOs, labour inspectors, social workers and officials dealing with irregular migrants and asylum seekers.

⁴⁵ See paragraph 21 of GRETA's first report on the Netherlands.

⁴⁶ See paragraph 134 of GRETA's first report on the Netherlands.

107. In 2013, an interdepartmental project was launched with the aim of developing a National Referral Mechanism (NRM) for victims of THB. The aim of the NRM is to improve co-operation between different stakeholders in the fields of criminal prosecution, health care and migration. As of June 2015, the website *Wegwijzer Mensenhandel* ("Signpost service for THB") offers an overview of the support available to victims of THB and provides guidance to professionals, possible victims and the general public as regards identification and referral of victims of THB, assistance, the criminal procedure and the possibilities of compensation for victims.⁴⁷ The website also provides contact details of the police, the NGO CoMensha and care co-ordinators. Specialised NGOs provide similar information on their websites.

108. In response to criticisms that only law enforcement agencies (police and KMar) can formally identify victims of THB (see paragraph 109), a pilot project was launched to develop a model of multidisciplinary identification of victims of THB. The key body in this project is the Victim Identification Board, an independent multidisciplinary board tasked with examining cases of possible victims of THB, which is composed of seven members, including a lawyer, a professor of Trafficking in Human Beings and Globalisation, an anthropologist and the former Dutch National Rapporteur on THB. The criteria for a case to be examined by the Board are the following: the victim must have reported to the police, the case has been dismissed or the suspect acquitted by a court after 2017, an application was submitted within four weeks of the date of the dismissal decision or the acquittal, and the presumed victim was exploited in the Netherlands or brought to the Netherlands to be exploited, using coercion and/or violence. During the project's pilot phase, which started in January 2018, 50 cases are to be examined by the Board. By 20 June 2018 the Victim Identification Board had considered two out of 21 eligible applications, both of which resulted in opinions that THB victimhood was plausible. The remaining applications, some of which require that additional information is sought before an opinion can be issued, were being examined.

109. The police and KMar are the sole bodies responsible for determining whether a person is a possible victim of THB deserving protection within the framework of the Residence Regulation for THB.⁴⁸ As soon as there is the "slightest indication"⁴⁹ that a foreigner is a victim of human trafficking, law enforcement officers must inform the presumed victim about the possibility of benefiting from the three-month reflection period provided for by the Residence Regulation for THB. However, the prospects of the investigation and prosecution are reportedly an important factor in the identification process and outweigh the "slightest indication" criterion. Moreover, the way in which the police, KMar and the Inspectorate SZW interpret the concept of the "slightest indication" appears to vary, and representatives of the SZW admitted to GRETA that the definition of the "slightest indication" is not clear. The National Rapporteur has found differences in the way the criterion of the "slightest indication" is applied in practice by the police, KMar at Schiphol Airport and the Inspectorate SZW. All relevant agencies are instructed to treat a person as a presumed victim of trafficking when there is the "slightest indication" of THB and to report all such cases to the NGO CoMensha. Different agencies (police, KMar, SZW, IND) have developed their own sets of indicators for the identification of victims of THB, the differences being due to the fact that these agencies usually come across THB for different forms of exploitation. The Dutch authorities have indicated that as there were differences in the reporting rate, CoMensha developed its own set of criteria which are now used by all reporting agencies.

⁴⁷ Available in English at: <https://english.wegwijzermensenhandel.nl/>

⁴⁸ The Residence Regulation for Trafficking in Human Beings is part of Aliens Circular 2000 and governs the reflection period, residence permit and access to assistance for foreign victims of trafficking without legal residence in the Netherlands. See paragraphs 133-135 of GRETA's first report on the Netherlands.

⁴⁹ In the Netherlands, rather than "reasonable grounds", the term "the slightest indication" is used in reference to a possible THB victimhood.

110. SZW inspectors refer presumed victims of THB to the police (specialised AVIM units) for the granting of recovery and reflection periods. GRETA was informed that since cases of THB for labour exploitation are difficult to prove before the courts, the SZW has tried to deter employers who commit offences by charging them with criminal offences other than THB or by issuing administrative fines. This approach may improve the chances of securing some form of punishment, but it may leave possible victims of THB without protection, assistance and compensation to which they would be entitled if there are charges of THB. The Dutch authorities have noted that a person may be a victim of what is referred to as "serious disadvantage" by an employer, in which case the Inspectorate SZW may impose an administrative fine. The Inspectorate SZW uses a programme-based approach to prevent and combat both "serious disadvantage" and THB for labour exploitation.

111. The NGO CoMensha operates a hotline for reporting THB cases, which is available from Monday through Friday (9 a.m. to 5 p.m.), in Dutch and English, and can be reached by phone or e-mail. Presumed victims of THB calling the hotline can be referred to a shelter or other forms of support. The hotline received 3,337 calls in 2014, 3,331 calls in 2015 and 3,573 calls in 2016.

112. The Immigration and Naturalisation Service (IND) is responsible for implementing the Human Trafficking Residence Scheme for victims of THB and witnesses reporting THB offences to the competent authorities. Its case workers (including those taking decisions on asylum applications) report any signs of THB to so-called enforcement information centre units (*handhavingsinformatie knooppunten*) which register and pass the information to the Expertise Centre on Human Trafficking and People Smuggling. To facilitate early detection, different instruments have been developed for IND staff, including a quick reference card with indicators and a procedure for how to report signs of THB.

113. In the asylum centre of Ter Apel, a protocol on how to proceed when detecting indicators of THB among asylum seekers has been developed by the AVIMs, the Immigration and Naturalisation Office, the Nidos Foundation, COA, the Legal Aid Board, the Dutch Council for Refugees, the Repatriation and Departure Service (DT&V) and CoMensha.

114. However, UNHCR has raised concerns about the asylum seekers' reception process and the capacity of the Dutch authorities' efforts to detect victims of THB among asylum seekers and to prevent asylum seekers falling victim of THB. There are no statistics available on victims of THB identified at asylum reception centres. Presumed victims of THB tend to opt for the asylum process rather than registering as victims of THB because the prospect of obtaining a long-term residence permit is considered to be better in the asylum track. Many THB cases do not lead to prosecution because of lack of evidence and hence residence permits are usually not granted. While the Dutch authorities recognise that a person can be a victim of THB and an asylum seeker at the same time, being a victim of THB is not in itself a ground for asylum, though it may be taken into account.

115. Reference should be made to the Supreme Court's decision of 17 May 2016 in a case concerning a Hungarian woman who arrived in the Netherlands to be engaged in prostitution.⁵⁰ Her flight ticket had been purchased by an alleged trafficker, the Court ruled that the intention to exploit is implicit in Article 273f (1), subsection 3, of the CC and therefore this intention needs to be proven for an act to constitute THB. In this case, the Court found that an intention to exploit could not be found and therefore the case could not be considered as THB. As noted in paragraph 12 (footnote 5), the impact of this decision is that the number of presumed victims of THB registered by CoMensha has been reviewed downwards.

⁵⁰ Case number 14/05782, available at <https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:HR:2016:857&showbutton=true&keyword=NL%3aHR%3a2016%3a857>

116. The figures on presumed victims of THB in paragraph 12 show that their number has decreased over the years. This decrease is mainly attributed to the wide-reaching reorganisation of the police and the political decision on new priorities as a result of the increased arrival of migrants and asylum seekers and the rise in terrorist threats. The fact that the Aliens, Identification and Human Trafficking Units (AVIMs) of the police are responsible for investigating both human trafficking and irregular migration may be a reason why victims of THB are reluctant to complain to the Police. Moreover, the National Rapporteur found that about 95% of the municipalities did not have a policy on THB-related issues and, even in those municipalities in which such a policy existed, the degree of prioritisation of anti-THB work varied. This lack of focus and prioritisation by municipalities is also likely to be detrimental to the identification of victims of THB. According to the Dutch authorities, care co-ordinators employed by municipalities are increasingly active in reporting presumed victims of THB and GRETA was informed of some positive examples of co-operation between smaller and larger municipalities when the small size of a municipality makes it difficult to develop viable anti-THB capacities of its own. According to civil society actors, another factor that may contribute to the decrease in the number of presumed victims of THB is that victims transiting the Netherlands are not detected as such but, rather, as being smuggled.

117. According to municipal care co-ordinators, the number of presumed victims of THB who have mild intellectual disabilities is on the rise, but this is not visible in the statistics collected by CoMensha as it is not allowed to record medical data. As a result the scale of the occurrence may not be understood by decision-makers. Care co-ordinators also point to a growing number of victims of THB for the purpose of criminal activities and male victims of sexual exploitation.

118. GRETA welcomes the development of a NRM and the setting up of the Victim Identification Board, which is in accordance with the recommendations made in GRETA's first report. However, GRETA is concerned by the decrease in the number of identified presumed victims of trafficking which does not seem to result from an actual decrease in victims but, rather, from a weakened capacity and reprioritisation of the fight against THB. **GRETA considers that the Dutch authorities should make further efforts to ensure that all victims of trafficking are identified as such and can benefit from the assistance and protection measures contained in the Convention, in particular by:**

- **ensuring that, in practice, the identification of victims of THB, upon which assistance measures depend, is not linked to the prospects of the investigation and prosecution;**
- **ensuring that the "slightest indication" criterion for identifying victims of trafficking is applied consistently by the police, KMar and the Inspectorate SZW, regardless of the purpose of the exploitation;**
- **continuing to strengthen multi-agency involvement in the identification of victims of trafficking by formally recognising the role of specialised NGOs in the decision-making process leading to identification;**
- **keeping under review the effectiveness of the Victim Identification Board;**
- **reviewing the mandate of the Aliens, Identification and Human Trafficking Units (AVIMs) of the Police with a view to separating the identification of victims of THB from the investigation of irregular migration;**
- **strengthening efforts to proactively identify victims of trafficking by reinforcing the capacity and training of the police, KMar, the Inspectorate SZW and IND;**
- **increasing the capacity of relevant professionals in municipalities to detect victims of THB;**

- **paying increased attention to the identification of victims of trafficking among asylum seekers and persons placed in immigration detention, allowing sufficient time to gather necessary information and taking into account their traumatic experience.**

b. Assistance measures (Article 12)

119. In its first report, GRETA urged the Dutch authorities to ensure that assistance provided to foreign victims of THB is not linked to investigations or prosecutions being pursued. Further, GRETA urged the Dutch authorities to ensure that victims receive adequate assistance uninterruptedly from the moment they are identified. For this purpose, the Dutch authorities were asked to avoid any bottleneck between specialised category-oriented shelters for foreign victims of THB (COSM),⁵¹ accommodating victims during the reflection period, and follow-up shelters or facilities, as well as to ensure continuity in the psychological and medical support provided to victims after the reflection period, including by clarifying and reinforcing the role of regional care co-ordinators.⁵²

120. As noted in GRETA's first report, the NGO CoMensha registers all presumed victims of THB in the Netherlands. Based on the information recorded and a needs assessment, CoMensha on the request or with the agreement of the victim refers adult victims to the most suitable shelter. Regional care co-ordinators also make such referrals. When a suitable shelter has been found, the regional care co-ordinator ensures the necessary assistance. In districts without a care co-ordinator, CoMensha functions as the regional case manager, making sure that basic needs are covered.

121. Dutch and EU victims, as well as third-country nationals with legal residence in the Netherlands, have access to all forms of support and assistance, regardless of whether they co-operate with the investigation and prosecution. For victims without legal residence, a residence permit can be granted for the period beyond the recovery and reflection period on condition that human trafficking is reported to the police and a criminal investigation against the perpetrator initiated. Thus the assistance to most third-country victims of THB beyond the recovery and reflection period remains linked to a criminal investigation being pursued. Civil society representatives told GRETA that the authorities do not always accept NGO assessments about victims of THB being too traumatised to participate in criminal proceedings. If third-country victims of THB who have been issued a temporary residence permit for the purpose of their co-operation in the investigation or criminal proceedings stop co-operating, the residence permit is withdrawn and as a consequence they lose access to assistance and support. According to the Dutch authorities, the support is not immediately withdrawn in practice. After the criminal proceedings end, third-country nationals can apply for a permanent residence permit on humanitarian grounds (see paragraph 165).

122. Assistance to victims of THB is provided by an extensive network of organisations, including specialised shelters (see paragraph 125), women's shelters and youth care. A combination of legal obligations and contractual demands are meant to ensure the quality of assistance and the organisations often have their own quality assurance systems, such as the HKZ certification.⁵³ Victims can benefit from assistance measures other than accommodation when they do not wish to stay at a shelter. However, it is not possible for a presumed victim of THB to be admitted to a shelter without having had a contact with the authorities. Some members of civil society told GRETA that there is insufficient quality control by the authorities of the assistance provided by new NGO actors. The cost remains the single most important criterion when services for victims of THB are procured by public sector tenders.

⁵¹ See paragraphs 155-161 of GRETA's first report on the Netherlands.

⁵² See paragraph 157 of GRETA's first report on the Netherlands.

⁵³ <http://www.hkz.nl/>

123. In 2015 the task of providing support and shelter to victims of THB was delegated to the municipalities, through changes to the Social Support Act and the Child and Youth Act, but the municipalities receive funding from the Government to implement these acts (in addition to municipal funding). The funds from the Government are not earmarked and most municipalities have not reserved a particular share of the health budget for assisting victims of THB. Therefore it may take weeks before an agreement about financing of assistance services for any individual victim has been reached.

124. In 2015 a committee chaired by the Mayor of Leiden drew up a report describing the responsibilities that municipalities have regarding shelter and support for victims of THB.⁵⁴ The report's recommendations included the proposal to establish a national network of regional care co-ordinators.⁵⁵ While the recommendation was followed, care co-ordinators have not yet been appointed throughout the country, which negatively impacts Dutch and EU victims' possibility to obtain specialised assistance as they need to rely on decentralised assistance. According to the care co-ordinators, the municipalities are not providing sufficient assistance to meet the needs of Dutch victims and there is in general a shortage of shelter places for victims of THB.

125. As described in GRETA's first report, since 2010, specialised shelters have been set up for adult foreign victims of trafficking who have been granted a reflection period, known as category-oriented shelters for victims of human trafficking (COSM), which are funded jointly by the Ministry of Justice and Security and the Ministry of Health, Welfare and Sport.⁵⁶ COSM shelters offer accommodation, medical, psychological, financial, social and practical support, including help to find employment and accommodation after the victims' stay in the shelter. In theory, COSM shelters are intended for third-country victims of THB, but EU nationals have also been accommodated there, especially after the capacity of COSM shelters was increased from 50 to 70 beds in 2012. There are currently three COSM shelters, which as of 2018 have a total capacity of 50 places⁵⁷ and will gradually be limited to third-country nationals only. The length of stay is limited to the three-month recovery and reflection period, but staff told GRETA that some victims had remained longer. GRETA was informed that there are no clear arrangements for support and accommodation beyond the three month recovery and reflection period and *ad hoc* solutions have to be found by the municipalities.

126. GRETA visited the COSM shelter for adult male victims of THB, Jade, which at the time of the visit had 13 residents (for a total capacity of 16), mostly originating from Uganda. The shelter is contractually obligated to extend its structural capacity upon request of the government. However, the occupancy rate has usually been low and at times free capacity has been used for female victims or families. The shelter is located 3 km from the centre of a village in a rather isolated location. Its facilities were in good condition. Each resident has his own room, which he can lock. The residents cook for themselves. For each resident a mentor prepares an action plan with reachable goals and there is a structured daily programme, including training in how to deal with everyday matters in Dutch society. Volunteers from the Red Cross and other organisation are in contact with residents and provide them with assistance or give Dutch language classes.

127. Dedicated places for male victims THB are also available in the system of shelters for victims of human trafficking at municipal level. In addition, CoMensha has funding to arrange temporary shelter for male victims, should male victims be detected and need accommodation at short notice.

⁵⁴ Report available in Dutch at: <https://vng.nl/onderwerpenindex/maatschappelijke-ondersteuning/maatschappelijke-opvang/nieuws/advies-cie-lenferink-over-opvang-slachtoffers-mensenhandel>

⁵⁵ For further details, see [Report submitted by the authorities of the Netherlands on measures taken to comply with Committee of the Parties Recommendation CP\(2014\)11 on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings](#), page 13.

⁵⁶ See paragraphs 155-161 of GRETA's first report on the Netherlands.

⁵⁷ Until 2018, two COSM shelters had 27 places each for women, and the third shelter had 16 places for men.

128. There are no specialised shelters for Dutch or EU adult victims of THB who are accommodated in municipal shelters providing protection and assistance to different categories of persons in need, such as victims of domestic violence, victims of honour related violence and victims as THB,. As regards shelters for child victims of THB, see paragraphs 137-139.

129. In addition to the legal and regulatory obligations with regard to the quality of care provided by the shelters, the network of care co-ordinators and CoMensha also play a central role in safeguarding the assistance provided to victims. All victims of human trafficking are entitled to free legal assistance by a lawyer. CoMensha administers a State-financed fund for translation services for victims of human trafficking, on top of general provisions with regards to translation services in the care system.

130. GRETA once again urges the Dutch authorities to ensure, in line with Article 12 (6) of the Convention, that assistance provided to foreign victims of THB is not linked to investigations or prosecutions being pursued.

131. Noting that assistance to victims of trafficking has been delegated to municipalities and in view of the varying experience and capacity of municipalities to assist victims of trafficking, GRETA considers that the Dutch authorities should ensure that the assistance provided to victims of THB is adapted to their specific needs and that minimum standards are guaranteed across the country, regardless of the service provider and which municipality is responsible for arranging the assistance measures. When specialised assistance is delegated to NGOs, the State has an obligation to provide adequate funding and monitor the quality of the assistance services provided.

c. Identification and assistance of child victims of THB (Articles 10 and 12)

132. In its first report, GRETA urged the Dutch authorities to improve the detection and identification of child victims of THB, including by setting up a specific identification mechanism which takes into account the special circumstances and needs of child victims, involves child specialists and ensures that the best interests of the child are the primary consideration. Further, GRETA considered that the Dutch authorities should ensure that placing child victims of "pimp boyfriends" in closed shelters should be a measure of last resort and for the shortest appropriate period of time, and should take into account the best interests of the child.

133. The website *Wegwijzer Mensenhandel* ("Signpost service for THB") contains a section dedicated to the support of child victims of THB and providing information on guardianship, shelter, protection and residence status.⁵⁸ There is no specific National Referral Mechanism for children with related standard operating procedures, but there are guidelines and tools assisting relevant professionals to identify and refer to assistance presumed child victims. Since the entry into force of the new Child and Youth Act in 2015, the municipalities have established so-called "local area teams" ("*wijkteams*") which are multi-disciplinary (consisting of professionals in youth welfare, mental health and social work) and can refer child victims to appropriate care.

⁵⁸ Available in English at: [https://english.wegwijzermensenhandel.nl/Support for under-aged victims/support-for-under-aged-victims.aspx](https://english.wegwijzermensenhandel.nl/Support%20for%20under-aged%20victims/support-for-under-aged-victims.aspx)

134. The assistance to victims of THB is an integral part of the work of youth care institutions. The quality of care that youth care organisations must provide is laid down in the Child and Youth Act. Supervision is carried out jointly by the Youth Care Inspectorate (IJZ), the Health Care Inspectorate (IGZ) and the Security and Justice Inspectorate (IVenJ). In 2016, the Committee Azough established a quality framework with which youth care institutions specialising in treating victims of so-called "pimp boyfriends" must comply.⁵⁹ As of 2018, the Youth Care Inspectorate will also monitor compliance with this quality framework by these specialist institutions.

135. For Dutch and EU child victims of THB, the standard child protection measures are applicable. A judge can impose measures to protect a child, such as a supervision order, which means parents must get help and support in raising their child, or a decision whereby custody is taken from the parents. The Child Protection Board can apply for such an order. Following the decentralisation of health care in 2015, the municipalities are responsible for making sure that victims of THB receive the assistance and shelter they need. The decentralisation has reportedly led to differences between municipalities as regards assistance measures, which stem from different budgets and knowhow about THB.

136. Reference has already been made in paragraph 28 to the Comprehensive Action Plan on the Issue of "Pimp Boyfriends". The UN Committee on the Rights of the Child (CRC), in its concluding observations on the Fourth Periodic Report of the Netherlands (2015) expressed concerns about deficiencies in the identification of child victims of "pimp boyfriends", the inadequate protection of such victims and the lack of co-operation among responsible agencies. The CRC was also concerned that child victims of trafficking may not benefit from the special residence scheme for victims of trafficking as such procedure is available only upon co-operation of the victim in the criminal proceedings against the trafficker, which places the child under great risk. The Dutch authorities have pointed out that child victims of THB who are not in a position to co-operate with law enforcement bodies because of established trauma, psychological or physical condition or security concerns may be granted a temporary residence permit for a year, after which they can apply for a permanent residence permits on humanitarian grounds.

137. There are two dedicated shelters with special arrangements for victims of "pimp boyfriends", run by Fier Fryslân and Kompaan en de Bocht (renamed Sterk Huis since December 2017), respectively financed by the municipalities of Leeuwarden (in the north of the Netherlands) and Tilburg (in the south of the Netherlands). Child victims are also sent to these specialised shelters by other municipalities, which pay for the services provided.

138. GRETA visited the Fier Fryslân shelter, which has 45 places for Dutch girls victims of "pimp boyfriends" (out of a total of 250 places for different categories of vulnerable children). The staff comprises social workers, psychologists and psychiatrists. Different degrees of restrictions are imposed on residents depending on the stage of their rehabilitation. During the first month, they are not allowed to leave the shelter and have no access to phones or the Internet. After the first month the restrictions are gradually lifted, depending on progress. New SIM cards are provided to ensure that no previous contact numbers remain. For the first phase of rehabilitation, there is a school on-site, but subsequently the girls can attend schools in the community. Vocational training is provided in a bakery and a sewing workshop and there are also sport facilities. The location of the shelter is not kept secret, but there are security guards on the premises around the clock.

139. There are also 13 regular youth care facilities which can accommodate, *inter alia*, victims of "pimp boyfriends". According to civil society organisations met by GRETA, there is an increasing trend of Dutch child victims of THB suffering from slight intellectual disabilities, which makes them targets for recruitment for exploitation. Some youth care facilities have reportedly been targeted by perpetrators.

⁵⁹ The Committee was set up by the Ministry of Health to examine whether there was sufficient institutional capacity in the Netherlands to address the issue of "pimp boyfriends". After establishing the quality framework, the committee was dissolved.

140. Specialised re-integration programmes for child victims of THB are offered by health organisations or NGOs such as Fier, Kompaan en Bocht and Spirit. If the child victim cannot be integrated into his or her family, s/he can be placed in a family home (small family-like care institutions employing youth care professionals) or foster care.

141. The National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children has expressed concern about Roma children being trafficking and exploited for forced criminality and/or forced marriage.⁶⁰ Reference should be made to the investigation 13Oceans, which concerned the trafficking of Roma children from Central and South-Eastern Europe for the purpose of forced criminality (e.g. stealing or pickpocketing) in the Netherlands and other Western European countries. Through multi-agency and international co-operation, the children were identified as victims of THB and provided with protection and assistance, which involved a series of organisations (the Child Care and Protection Board, the Salvation Army, Fier, Nidos, KMar, IND, DT&V, the Expertise Centre on Trafficking in Human Beings and People Smuggling, the Ministry of Justice and Security GRETA was informed that in 2017, the operation 13Oceans came to an end and that there is no longer capacity to investigate such cases.

142. Care co-ordinators met by GRETA indicated that there have been cases of Roma children forced to beg or steal in the southern regions of the Netherlands. GRETA was informed that even when the police and other stakeholders suspect exploitation, there is no child protection system in place that is suited to the needs of child victims of THB for the purpose of forced criminality. As a result, the children are sent back to their countries of origin or disappear. Sometimes the children sent back are re-trafficked and reappear in the Netherlands. To try to remedy the situation, a new multi-agency team referred to as "26 Hot Springs" has recently been established at national level. Police representatives indicated that new protocols are being developed to make police officers conscious of the possibility that children engaged in pickpocketing or begging might be victims of THB. A pilot project to this effect will start in January 2018.

143. All unaccompanied or separated foreign children arriving in the Netherlands are first sent to the Ter Appel reception centre for asylum seekers (see paragraph 114). Those under 15 years of age are placed in foster families and those who are older, in small reception centres or in protected shelters if they are considered vulnerable to THB (see paragraph 147).

144. The Nidos Foundation is responsible for providing legal guardians to unaccompanied children and, where necessary, it submits an application for guardianship to a court. Nidos employs youth workers who act as guardians for about 20 children each. The system with assigning guardians through Nidos is considered to function very well. It takes two to three days before a guardian is appointed after a child has been registered at the Ter Appel asylum reception centre and a lawyer is quickly appointed as well. No interviews with an asylum-seeking child take place without the presence of the child's guardian and lawyer.

145. Once guardianship has been granted, the responsibility for the child remains with Nidos which, in accordance with the Civil Code, arranges shelter, counselling, education, medical care and legal assistance for the child. Nidos is authorised to represent children during the asylum procedure, where necessary assisted by a lawyer. IND and COA are involved in ensuring the safety of children awaiting asylum decisions. Nidos also conducts family tracing, which is relevant for family reunification if the child is given a residence permit or, alternatively, for the return procedure.

⁶⁰

Available at:

https://www.dutchrapporteur.nl/binaries/Vulnerability%20up%20Close_interactive_National%20Rapporteur%20on%20Trafficking%20in%20Human%20Beings%20and%20Sexual%20Violence%20against%20Children_tcm24-128353.pdf

146. Civil society representatives point to the low number of identified child victims of THB in relation to the high number of unaccompanied or separated asylum seeking children who arrived in the Netherlands in 2015 and 2016. They suspect that not enough is being done by the authorities to identify child victims of THB among asylum seeking children and children in an irregular migration situation. Civil society representatives have also expressed concern about children of adult victims of THB who are not given victim status or residence permits linked to that of their parents, which results in inadequate financial support, care and protection for these children.

147. Unaccompanied children can be placed in in a protected shelter with a view to protecting them from trafficking and exploitation. Such protected shelters were introduced in 2008 after a large THB network was detected.⁶¹ The purpose of the protected shelters is twofold: on the one hand, protection against possible THB, and on the other, the supervision of child victims so that the connection with the traffickers can be broken. A risk assessment of each new arrival is made in the first six weeks. This multidisciplinary risk analysis is executed by several organisations, namely the Nidos Foundation, the Central Agency for the Reception of Asylum Seekers, the JADE Foundation, the Centre of Expertise of Aliens, Identification and Human Trafficking, the Immigration and Naturalisation Service and the Expertise Centre for Human Trafficking and Human Smuggling. The assessment covers medical, physical, cultural and religious factors and the results are used to plan the assistance and protection of the child according to his/her needs. The results of the analysis can be used as evidence in immigration and criminal proceedings.

148. The GRETA delegation visited one of the protected shelters, located in the north of the Netherlands and operated by the organisation Jade Zorggroep.⁶² It has 18 places and, at the time of the visit, 11 children were being accommodated, as well as a 18-year old girl together with her child. A total of 12 staff work at the shelter. The rehabilitation process usually lasts nine months, but children can stay longer if necessary, until they have recovered. There is a structured programme every day from 7 a.m. to 10 p.m. During the first months, children are not allowed to leave the shelter on their own, but subsequently the restrictions are gradually lifted. Children attend school outside the shelter and some of them disappear while outside the shelter. If needed, telephone interpretation is used for mentor talks and other important communications.

149. In September 2016 the State Secretary of Security and Justice stated that 24 unaccompanied asylum-seeking children had gone missing from institutional care in 2015 and informed Parliament about plans to reduce the number of such children going missing. A separate national protocol has been drawn up for unaccompanied children who go missing. All parties involved, such as COA, Nidos and the police, must work in conformity with this protocol. At the start of the procedure at the reception centre, the Police or KMar take the children's fingerprints, including from children below the age of 12, on the basis of the Protocol Identification and Labelling of Third-country nationals, which facilitates the tracing of children who have gone missing. If an unaccompanied child goes missing, KMar and police are informed immediately. Within 24 hours, the organisations concerned provide all information about the case and about any possible suspicious situations to the law enforcement agencies. The police draws up a report, hear witnesses, conduct forensic and other investigations, and where applicable issue a national or international alert in respect of the missing unaccompanied child (see also paragraph 246).

150. Lawyers are available to advise children at the protected shelters about how to try to secure a permanent residence permit. Most children opt to apply for asylum rather than co-operating with the criminal investigation, because the chances of gaining a permanent residence permit are often considered better that way.

⁶¹ For more details, see paragraphs 163-164 of GRETA's first report on the Netherlands.

⁶² <http://jadezorggroep.nl/jadezorggroep-history?lang=en>

151. In 2015 the Youth Inspectorate concluded that the quality of the supervision and guidance provided to children in the protected shelters was insufficient. As a result, the State Secretary of Security and Justice and Minister for Immigration asked the Central Agency for the Reception of Asylum Seekers (COA) to find ways to improve the quality. A renewed inspection by the Youth Inspectorate and the Inspectorate of the Ministry of Justice and Security in December 2016 found that 10 out of 12 shortcomings established earlier had been remedied. According to the Dutch authorities' comments to GRETA's draft report, the COA addressed the two remaining shortcomings by September 2017.

152. Care co-ordinators informed GRETA that not much attention was given to possible links between THB and forced marriage. The report by the National Rapporteur referred to in paragraph 52 also raised concerns about child marriages. About 230 child brides had been reported to the IND between 24 July 2014 and 18 February 2016, most of them Syrian. Following reports in the media about Syrian child brides in the Netherlands, the adoption of a pending draft law for the prevention of forced marriages was accelerated and adopted in October 2015. The effect of the law was that the Netherlands no longer recognised child marriages concluded in other countries. Nonetheless, the risk of *de facto* child marriages in the Syrian refugee community remains.

153. The legal basis for age assessment is provided by the Implementation Guidelines of the Aliens Act. In the absence of relevant identification documents, the age of young persons who are possible child victims of THB is initially determined by visual inspection and behavioural assessment carried out by KMar, the Police or the IND. They might accept the age declared by the young person, or, if they consider that s/he is an adult, they will offer him/her the possibility to undergo a radiological examination (x-ray of wrist and if necessary of the collar bones). If the young person refuses such an examination, the IND will conclude that s/he is an adult. If a person is registered in the Schengen Information System, the age registered there will be decisive for the Dutch authorities. GRETA is concerned about the policy of concluding that a young person refusing an age assessment is an adult and notes that this method of age assessment does not take into account psychological, cognitive or behavioural factors. **GRETA invites the authorities of to review the age assessment procedures, ensuring that the best interests of the child are effectively protected and taking into account the Convention on the Rights of the Child and General Comment No. 6 of the Committee on the Rights of the Child.**⁶³

154. GRETA welcomes the smooth procedures for appointing guardians for unaccompanied children arriving in the Netherlands as well as the policies applied to facilitate the tracing of missing children.

155. **GRETA considers that the Dutch authorities should to make further efforts to improve the identification of and assistance to child victims of trafficking, in particular by:**

- **developing a National Referral Mechanism for child victims of THB which takes into account the special circumstances and needs of child victims, involves child specialists and ensures that the best interests of the child are the primary consideration in all proceedings relating to child victims of THB and children at risk;**
- **ensuring that relevant actors take a proactive approach and increase their outreach work to identify child victims of THB by providing further training to stakeholders and guidance on the identification of child victims of THB, based on an agreed understanding of the concepts of trafficking for the purpose of forced begging, forced criminality and trafficking through the use of early, child or forced marriages;**
- **ensuring long-term monitoring of the reintegration of child victims of trafficking;**

⁶³ [General Comment No. 6 Treatment of unaccompanied and separated children outside their country of origin](#), Committee on the Rights of the Child, Thirty-ninth session, 17 May - 3 June 2005.

- **ensuring that proper risk assessment is conducted before returning children to their parents, taking into account the best interests of the child.**

156. GRETA stresses that, in line with Article 12.7 of the Convention, the accommodation of presumed child victims of trafficking has to be appropriate in terms of their specific needs. GRETA understands that a balance needs to be struck between preventing child victims of THB or children at risk of THB from absconding from shelters and avoiding actual detention of children. In this context, GRETA recalls paragraph 155 of the Explanatory Memorandum to the Convention and Article 37(b) of the UN Convention on the Rights of the Child, according to which any detention of children shall be used only as a measure of last resort and for the shortest possible period of time.⁶⁴ **GRETA considers that the principle of the best interests of the child should be fully respected at all times and the Dutch authorities should keep under review the application of the restrictive regime implemented by some of the regular youth care facilities.**

d. Protection of private life (Article 11)

157. The Personal Data Protection Act applies to data on victims of THB and provides that a victim's data as a rule must not be shared without their consent, though exceptions can be made if the victim is at risk. As noted in paragraph 50, CoMensha collects data on victims of THB and submits it in an anonymised format to the National Rapporteur. Youth care workers have been advised not to report names of presumed child victims of THB, but only their dates and places of birth, which prevents double counting. Names of victims are never shared with the media. Various guidance manuals have been developed for professionals who might come into contact with a victim of THB and who are unsure whether they can share data about the possible victim.

158. As noted in paragraph 48, fears of violating data protection legislation has caused reluctance among some actors to report suspicions of trafficking. **GRETA considers that the Dutch authorities should clarify relevant data protection rules to stakeholders who might come across victims of THB, including NGOs and members of certain professions such as youth care professionals, including by making relevant legislation and rules part of the training of relevant professionals about THB.**

e. Recovery and reflection period (Article 13)

159. In its first report, GRETA urged the Dutch authorities to ensure, in compliance with the obligations under Article 13 of the Convention, that possible victims of trafficking are offered a recovery and reflection period and are able to fully benefit from all the measures of protection and assistance envisaged in Article 12, paragraphs 1 and 2, of the Convention during this period.

160. According to the Dutch authorities, a person who does not have legal residence and shows the "slightest indication" of possibly being a victim of THB is offered a three-month recovery and reflection period by the Police or KMar. There is no requirement that the person concerned makes a formal statement or declaration. The Inspectorate SZW is not mentioned in the Aliens Act among the agencies competent to issue a recovery and reflection period, but SZW inspectors in practice take decisions to issue such a period when they consider it appropriate and transmit it to the Police or KMar who formalise the decision. The recovery and reflection periods and residence permits for victims without legal residence may also be granted to witnesses of THB whose stay in the Netherlands is essential to investigations and prosecutions.

⁶⁴ <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>. See also the Council of Europe's Strategy for the Rights of the Child 2016-2021 and the UN Guidelines on Alternative Care for Children.

161. The Aliens Act does not foresee a recovery and reflection period for persons staying regularly in the Netherlands, which would in theory exclude EU nationals.⁶⁵ Nonetheless, the Dutch authorities have instructed law enforcement agencies to grant it to EU nationals as well. Regardless of this instruction, GRETA was informed that some police officers and labour inspectors considered that the recovery and reflection period was not applicable to EU citizens. The National Rapporteur has expressed similar concerns, especially as regards the application of "slightest indication" by SZW inspectors and KMar officers at Schiphol airport in Amsterdam, and has recommended that the Ministry of Justice and Security issue precise instructions about the criteria for granting a recovery and reflection period and that the intended low threshold of the "slightest indication" should be followed by all relevant authorities.

162. In 2014, 174 victims of THB (124 women, 42 men and 8 children) were granted a recovery and reflection period, in 2015, 134 victims, and in 2016, 116 victims.

163. GRETA once again urges the Dutch authorities to take additional steps, in compliance with the obligations under Articles 10, 12 and 13 of the Convention, to ensure that all possible foreign victims of trafficking, including EU/EEA nationals, are consistently offered a recovery and reflection period, regardless of the competent authorities which deal with their cases. To this end, the Dutch authorities should ensure that the legislation and instructions are harmonised and unambiguous as regards the right of foreign EU trafficking victims to a recovery and reflection period.

f. Residence permits (Article 14)

164. In its first report, GRETA considered that the Dutch authorities should ensure that victims of trafficking can fully benefit in practice from the right provided under Dutch law to obtain a renewable residence permit when they are unable to co-operate with the authorities and to raise awareness of this possibility among relevant professionals and victims. In addition, GRETA considered that the Dutch authorities should ensure that, in trafficking cases in which it has been decided not to prosecute, victims are duly informed of the possibility of applying for a residence permit on compelling humanitarian grounds and that deportation is suspended while their application is examined.

165. Pursuant to the Aliens Decree 2000, a residence permit can be granted to victims of THB who co-operate with the criminal investigation as well as to victims who cannot be expected to co-operate, due to a serious threat against them and/or due to medical or psychological constraints.⁶⁶ Some of the circumstances that are taken into account when deciding whether to grant a residence permit on humanitarian grounds are described in chapter B9/12 of the Aliens Implementation Guideline and include risk of prosecution in the country of origin, on grounds of past prostitution, as well as the prospects of social reintegration in the country of origin, taking into account the specific cultural background, possible enduring disruption of family-relations, societal views and Government policies on prostitution.

166. According to the Dutch authorities, a victim of THB who has co-operated with the criminal proceedings and in whose case there has been a conviction will always be granted a permanent residence permit. The same applies if the victim has co-operated with the criminal proceedings and they have lasted for over three years, in which case the result of the investigation does not matter for the validity of the residence permit. However, several interlocutors underlined that many THB investigations last less than three years and/or do not result in a conviction of perpetrators or even a court decision, in which case victims of THB will not be granted a permanent residence permit but will be returned to their country of origin, making co-operation with the criminal proceedings less attractive compared with the asylum track.

⁶⁵ The three-month reflection period is specified in more detail in chapter B8 of the Aliens Circular.

⁶⁶ For further details, see paragraphs 186-190 of GRETA's first report on the Netherlands.

167. As noted in paragraph 115, victims of THB often choose to apply for asylum, on the basis of advice from lawyers, rather than be identified as victims of THB, because the chances to obtain a permanent residence permit are considered better in the asylum track.

168. Child victims of THB may, like adult victims, be granted residence permits based on their co-operation with the criminal proceedings, as well as on humanitarian grounds. The latter possibility applies to child victims who are under direct threat from the perpetrators or have severe medical or mental problems. As with adult victims, considerations in the context of deciding about the granting of a permanent residence permit on humanitarian grounds include prospects of social reintegration and risk of reprisals or prosecution on grounds of prostitution if the child is returned to the country of origin. The National Rapporteur has reported that 565 presumed foreign child victims of THB were registered by CoMensha in the period 2012-2016, but only 54 were granted residence permits. Fourteen of the children applied for a permanent residence permit on humanitarian grounds and three such permits were granted. The Dutch Government is at present considering making residence permits on humanitarian grounds the rule for all trafficked children.

169. In 2014, 245 victims of THB were granted a temporary residence permit. In 2015, 173 temporary residence permits and 54 permanent residence permits on humanitarian grounds were granted to victims of trafficking. In 2016, 156 temporary residence permits and 54 permanent residence permits on humanitarian grounds were granted.

170. **GRETA considers that the Dutch authorities should ensure that victims of trafficking can fully benefit in practice from the right under Dutch law to obtain a renewable residence permit when they are unable to co-operate with the authorities, and to raise awareness of this possibility among relevant professionals and victims.**

g. Compensation and legal redress (Article 15)

171. The legislation relevant to compensation has not changed since the first GRETA report.⁶⁷ Thus a victim of THB can claim compensation as part of the criminal proceedings or start civil proceedings to seek redress from the perpetrator for the damage suffered. If the court upholds the civil claim, the victim can instruct a bailiff to recover the damages from the perpetrator. As noted in the first GRETA report, the State will pay the compensation to the victim if the perpetrator has not done so within a certain time. Criminal court judges are considered by some as not very good at calculating compensation for future loss of income (for example, due to a handicap which is a result of the victimisation) and therefore such claims may be most successful in a civil procedure.

172. In 2014, courts ordered perpetrators of THB to pay compensation to their victims in 45 cases, concerning a total of 84 victims. On 10 July 2017 a man was convicted of THB by the District Court of Amsterdam and ordered to pay 175,000 Euros in compensation to the victim.⁶⁸

173. Victims of offences involving serious violence who have suffered severe psychological or physical injury and who do not receive compensation in any other way can obtain compensation from the Violent Offences Compensation Fund. About 90% of victims of THB who have applied for compensation from the fund have been awarded compensation. For example, in 2016 there were 120 applications, out of which 107 were successful. The maximum compensation payable from the fund is 35,000 Euros. Previously the amount of the compensation was partly based on the real costs incurred by the victim, but now lump sums are awarded based on the severity of the injury caused to the victim (physical or other). Victims of THB for sexual exploitation will normally receive a lump sum of 10,000 Euros.

⁶⁷ See paragraphs 194-197 of GRETA's first report on the Netherlands.

⁶⁸ Case ECLI:NL:RBAMS:2017:4866.

174. A victim of THB may be represented by a lawyer, for example during the reporting to the police or the criminal trial. This legal assistance is free of charge for victims of THB. This right is laid down in the policy of the Legal Aid Board, which implements the relevant legislation. Victims can also get free legal assistance from Victim Support the Netherlands.⁶⁹ Where necessary, interpretation and translation can be arranged free of charge for the victim.

175. To promote effective compensation of victims of THB, the National Public Prosecutor's Office for Serious Fraud and Environmental Crime and Asset Confiscation gives presentations to prosecutors on financial investigations and how they may use the information thus gathered to seek compensation for the victims. The aim is to prevent traffickers from keeping the money they made by exploiting human beings.

176. Victims of THB can ask lawyers, public prosecutors or organisations that assist in claiming compensation, to claim it on behalf of the victim, even after their return to the country of origin. In the so called Cornwall case, Filipino sailors successfully claimed compensation in the Netherlands after they had returned to the Philippines.⁷⁰

177. The Labour Inspectorate SZW can fine employers that have violated the Minimum Wage Act. If the employer does not offer compensation, the Inspectorate SZW can impose penalty payments of up to 40,000 Euros per employee.

178. According to civil society representatives, there is still insufficient knowledge about compensation for THB for the purpose of labour exploitation and training of relevant professionals is needed in this regard. Civil society representatives also pointed out that the threshold for victims to claim unpaid wages remains high, as they need to pay a lawyer to pursue such a claim and may not be able to afford it.

179. **GRETA welcomes the attention paid to victim compensation in the Netherlands and invites the Dutch authorities to continue training relevant professionals with a view to facilitating access to compensation, including in cases of THB for the purpose of labour exploitation.**

h. Repatriation and return of victims (Article 16)

180. A risk assessment is carried out by the Migration Service as part of the process to decide whether a victim of THB should be granted a residence permit on humanitarian grounds (for the criteria, see paragraph 165). Once a decision whether to issue a residence permit is made, there is no separate risk assessment in the context of return procedures, apart from any made by IOM, through which some of the voluntary returns are arranged (see paragraph 184).

181. The Dutch authorities assert that they respect the principle of *non-refoulement*, explaining that if a request for asylum is made, an assessment is made of the risk that the asylum seeker runs of being treated in violation of Article 3 of the ECHR if removed from the country. Victims of THB and asylum seekers are not forcibly returned to certain countries, including, at the time of GRETA's visit, Syria and Iraq.

⁶⁹ <https://www.slachtofferhulp.nl/en/Victim-Support-Netherlands/>

⁷⁰ <https://www.teamwork-against-trafficking-for-labour-exploitation.nl/examples/exploitation-philippine-sailors-the-netherlands>

182. In order to encourage possible victims of THB who have no legal possibility to stay in the Netherlands to return home voluntarily, the Ministry of Justice and Security provides support to organisations facilitating voluntary return of victims, both in practical terms and through financial subsidies. Every case is given tailor-made support. Some NGOs in the Netherlands provide vocational training for victims of trafficking due to be returned.

183. According to the Dutch authorities, many child victims of THB are granted permanent residence permits and forced returns are rare. However, if a child victim of THB is not granted a permanent residence permit s/he may eventually be prepared for a return to the country of origin. There are specialised supervisors from the Repatriation and Departure Service (DT&V) who prepare the return of unaccompanied children, in consultation with the police, IND and Nidos. For a return to be executed, there have to be adequate reception conditions in the country of origin. The policy is that the returned child should not be in a worse situation than his or her peers in the home country and should be provided with shelter until the age of 18, food, clothing, hygiene, education and medical facilities. The Dutch authorities consider reunification of the child with his or her family in the country of origin to be in the best interests of the child and hence the best solution. GRETA refers to paragraph 207 of the Explanatory Memorandum of the Convention which provides that when the authorities take a decision regarding the repatriation of a child victim, the best interests of the child must be the primary consideration and the authorities must undertake an assessment of the risks which could be generated by the return of the child to a State as well as on its security, before implementing any repatriation measure.

184. IOM organises assisted voluntary returns and has an annual budget of 10-15 million Euros for the purpose. As regards EU citizens, the IOM is as a rule only allowed to return persons from the countries which joined the EU in 2004 or later, but exceptions can and have been granted. As concerns third countries, citizens of countries whose nationals do not need a visa for the Netherlands are in principle excluded from the voluntary return programme, but exceptions are usually made for victims of THB, if requested. Returnees are offered a return package worth up to 1500 Euros, including 300 Euros in cash, based on an individual return plan.

185. For every return, a risk assessment is made by IOM. Sometimes it is assessed that there is a risk of re-trafficking, but the victim wants to return to his/her country and IOM supports the return nonetheless, rather than letting the victim return without any help. Where there is an IOM office in the country of origin, it is involved in making the risk assessment.

186. In 2014, 26 victims of trafficking were returned from the Netherlands.⁷¹ The DT&V does not record returned trafficking victims separately from other returnees.

187. GRETA considers that the Dutch authorities should further develop co-operation with countries of origin of victims in order to ensure comprehensive risk and security assessment (and safe return of victims of THB, as well as effective reintegration on return, taking into account the UNHCR's Guidelines on the application of the Refugees Convention to trafficked people,⁷² and by fully respecting the principle of the best interests of the child.

⁷¹ This data stems from the IOM and may not include victims of THB who have received assistance from NGOs or others for their voluntary return.

⁷² [UNHCR, Guidelines on International Protection: The application of Article 1A\(2\) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees to victims of trafficking, HCR/GIP/06/07](#), 7 April 2006

3. Substantive criminal law

a. Criminalisation of THB (Article 18)

188. Article 273f of the Criminal Code, which criminalises trafficking in human beings and entered into force in January 2005, has not changed since GRETA's first report as reads as follows:

"1. Any person who:

1°. with the intention of exploiting another person or removing his or her organs, recruits, transports, transfers, accommodates or shelters that other person, including the exchange or transfer of control over that person, by means of duress, violence or another hostile act, or the threat of violence or other hostile act, or by means of extortion, fraud, deception or the abuse of power arising from a specific state of affairs, or by means of the abuse of a position of vulnerability, or by means of giving or receiving payments or benefits in order to obtain the consent of a person having control over that other person;

2°. recruits, transports, transfers, accommodates or shelters a person, including the exchange or transfer of control over that person, with the intention of exploiting that other person or removing his or her organs, if that person has not yet reached the age of eighteen years;

3°. recruits, takes away or abducts a person with the intention of inducing that person to make him or herself available for sexual acts with or for a third party for payment in another country;

4°. forces or induces another person by means referred to under 1o to make him or herself available for work or services or to make his/her organs available, or takes any action in the circumstances referred to under 1° which he knows or may reasonably be expected to know will result in that other person making him or herself available for work or services or making his or her organs available;

5°. induces another person to make him or herself available for sexual acts with or for a third party for payment or to make his or her organs available for payment, or takes any action in relation to another person which he knows or may reasonably be expected to know will result in that other person making him or herself available for these acts or making his or her organs available for payment, if that other person has not yet reached the age of eighteen years;

6°. intentionally profits from the exploitation of another person;

7°. intentionally profits from the removal of organs from another person, if he knows or may reasonably be expected to know that the organs of that person were removed under the circumstances referred to under 1°;

8°. intentionally profits from the sexual acts of another person with or for a third party for payment or the removal of that person's organs for payment, if this other person has not yet reached the age of eighteen years;

9°. forces or induces another person by the means referred to under 1o to provide him with the proceeds of that person's sexual acts with or for a third party or of the removal of that person's organs; shall be guilty of trafficking in human beings and as such liable to a term of imprisonment not exceeding twelve years or a fifth category fine.

2. Exploitation shall include, at the minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced or compulsory labour or services, including begging, slavery or practices comparable to slavery or servitude, servitude or the exploitation of criminal activities.

3. The following offences shall be punishable by a term of imprisonment not exceeding fifteen years or a fifth category fine:

1°. offences as defined in paragraph 1 if they are committed by two or more persons acting in concert;

2°. offences as defined in paragraph 1 if they are committed in respect of a person who is under the age of eighteen or in respect of a person whose position of vulnerability is being abused;

3°. offences as defined in paragraph 1 if they are preceded by, committed by use of or followed by violence;

4. If one of the offences defined in paragraph 1 is committed by use of serious violence, results in serious physical injury or threatens the life of another person, it shall be punishable by a term of imprisonment not exceeding eighteen years or a fifth category fine;

5. If one of the offences defined in paragraph 1 results in death, it shall be punishable by a term of life imprisonment or temporary imprisonment not exceeding thirty years or a fifth category fine;

6. A position of vulnerability includes a situation in which a person has no real or acceptable alternative but to submit to the abuse involved;

7. Article 251 shall apply *mutatis mutandis*."

189. "Abuse of a position of vulnerability" is mentioned in Article 273f, paragraph 1, subparagraph 1, of the CC as one of the means for committing THB. Paragraph 6 of Article 273f provides the following definition: "A position of vulnerability includes a situation in which a person has no real or acceptable alternative but to submit to the abuse involved." The Directive for Sentence Recommendations on THB of the Public Prosecution Service lists the following criteria for evaluating the vulnerability of a person subjected to THB: intellectual disability, lack of legal residence, trauma sustained, debt problems or lack of possibility of return to the country of origin.⁷³ These criteria often influence the penalty that is imposed. The judge has to consider whether the above-mentioned criteria are present and is required to explain his/her decision on the penalty given in each case.

190. GRETA refers to an article published in August 2016 which analyses the role of national courts in interpreting definitions based on the international definition of human trafficking in the UN Trafficking Protocol and the role played by the Dutch Supreme Court in interpreting the anti-THB legislation contained in the Dutch CC, for example as regards "abuse of a position of vulnerability" and the criminal intent element (purpose of exploitation).⁷⁴

191. Begging is included among the forms of forced labour or services referred to in the second paragraph of Article 273f of the CC. Begging is also an administrative offence in some of the municipalities in the Netherlands.

192. Exploitation for criminal activities is also listed as of the purposes of THB in paragraph 2 of Article 273f of the CC. In this context, the Dutch authorities have referred to the investigation 13Oceans which concerned Roma children trafficked for the purpose of forced criminality (see paragraph 141). In another case, the grandfather of a 10-year old girl who had forced her to commit burglary was convicted of THB and theft and sentenced to eight months of prison, four of which conditional.⁷⁵

193. Neither forced marriage nor illegal adoption is among the forms of exploitation explicitly listed in Article 273f of the CC. Forced marriage is criminalised under Article 284 of the CC and illegal adoption under Article 28 of the Adoption Act. However, forced marriage and illegal adoption could be considered by Dutch courts as constituting THB offences if an intention to exploit the victim can be proven.

⁷³ Available at: <http://www.om.nl/onderwerpen/mensenhandel/@93708/richtlijn-1e/>

⁷⁴ Corinne Dettmeijer-Vermeulen and Luuk Esser, *The Prominent Role of National Judges in Interpreting the International Definition of Human Trafficking*, available at: <http://www.google.fr/url?sa=t&rct=j&q=&esrc=s&source=web&cd=2&ved=0ahUKewiKw6nCtKPaAhXjPZoKHcUnCRcQFggxMAE&url=http%3A%2F%2Fwww.antitraffickingreview.org%2Findex.php%2Farticle%2Fdownload%2F171%2F159%2F&usq=AOvVaw0rweTN43D-SjsKAIttjo5v>

⁷⁵ Case ECLI:NL:RBMNE:2013:2679

194. According to the Dutch authorities, Article 273f of the CC provides the possibility to prosecute providers or administrators of websites that intentionally encourage or permit contacts for the recruitment of THB victims. However, such prosecutions are yet to occur. GRETA was informed that several CC articles regarding sexual offences (Articles 242, 244, 245, 246, 247 and 248b) enable the prosecution of operators of websites by charging them with participating in the commission of, or being accomplices to, offences.

b. Criminalisation of the use of services of a victim (Article 19)

195. In its first report, GRETA invited the Dutch authorities to consider making clearer the criminalisation of the use of services of a victim of THB with the knowledge that the person is a victim of THB.

196. In June 2016 the Second Chamber of the Dutch Parliament adopted a private member's bill amending the CC to establish criminal liability for a person who uses sexual services with the knowledge or strong suspicion that a victim of THB is involved. This criminal offence, which would become Article 273g of the CC, is proposed to carry a sentence of a maximum of four years' imprisonment or a fine of the 4th category. The bill is presently pending before the Senate. **GRETA would like to be kept informed about the status of the bill.**

197. Article 273f, paragraph 1, subparagraph 6, of the CC states that any person who intentionally profits from the exploitation of another person shall be guilty of trafficking in human beings.

198. GRETA notes that Article 248b of the CC criminalises sexual abuse of children against payment and refers to the report by the National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children about the implementation of this provision, including the possible links between paid sex with children and THB (see paragraph 98).

199. **GRETA once again invites the Dutch authorities to criminalise the use of services of a victim of THB, with the knowledge that the person is a victim of THB.**

c. Corporate liability (Article 22)

200. According to Article 51 of the CC, criminal acts may be committed by natural and legal persons. Since THB for the purpose of forced labour or services is a criminal act under art. 273f of the CC, legal persons can be held liable for these forms of THB.

201. If a company is aware of one of its subcontractors being involved in THB for labour exploitation, but uses that subcontractor nonetheless, it could be held liable for THB because it is intentionally profiting from the exploitation of others. Depending on the circumstances, the company may also be prosecuted for either participating in the commission of a crime (Article 47 of the CC) or being an accomplice to it (Article 48 of the CC).

202. With the introduction of the Dutch Labour Market Fraud (Bogus Schemes) Act on 1 July 2015, "chain liability" applies to the payment of wages which have been agreed between an employer and employee. Chain liability means that if there is a chain of employers (not necessarily in the same group of companies), the employee can hold companies higher up in the chain liable for payment of the wages to which s/he is entitled according to his contract or according to minimum wage rules and regulations.

203. Reference should be made to the judgment by the Limburg District Court on 10 November 2016 pronounced in the case against the mushroom farm Prime Champ Production B.V. for malpractices which occurred in 2009-2012.⁷⁶ The company and its director were convicted of THB for the purpose of labour exploitation as well as for forging payslips and some of the business records. The court was not able to assess how many Polish employees had been exploited in total, but considered it proven that Prime Champ Production B.V. was guilty of THB for the purpose of labour exploitation of at least six Polish mushroom pickers, in conjunction with another company belonging to the Prime Champ group. Its director was deemed to have been effectively in charge of this process and received a prison sentence of two years, while the company Prime Champ Production B.V. was fined 75,000 Euros. The court also convicted a financial manager and an ICT specialist hired by the company of forgery of documents (the former was sentenced to six months' imprisonment and the latter to 100 hours of community service). No aggrieved parties have come forward in court in any of the Prime Champ cases that have been heard in appeal. Therefore, no decisions have been made about the compensation of the victims. In appeal, a class action claim is being prepared through the NGO Fairwork and with the support of a law firm. The claim will presumably include a claim for monetary damages. The victims can no longer join the case as injured parties. There is an ongoing confiscation investigation in which it is still to be determined what can be done for the victims.

204. **GRETA welcomes the use of existing legislation for prosecution of THB offences committed by legal entities and considers that the Dutch authorities should continue to make full use of the possibilities provided by law.**

d. Non-punishment of victims of trafficking in human beings (Article 26)

205. In its first report, GRETA urged the Dutch authorities to ensure that victims who have committed an offence under the influence of traffickers are not precluded from obtaining a residence permit after the conviction of the perpetrators. Further, GRETA invited the Dutch authorities to ensure that no victims found in possession of false travel documents are punished on this ground.

206. As noted in paragraph 215 of the first GRETA report, public prosecutors have discretionary power to decide whether or not to prosecute a case. The public prosecutor can decide not to prosecute based on two grounds.⁷⁷ A technical ground may be used in cases where the perpetrator is not punishable, for example because of self-defence, *force majeure* or if the perpetrator is a victim of THB and committed the offence under coercion. If the technical ground is not applicable, a policy ground may be used in cases where the offence is so minor or without significant consequence, such that it does not really merit punishment (*geringe strafwaardigheid*).

207. According to Article 9a of the CC, the non-punishment principle can also be given effect through a court verdict. In the event that a victim is prosecuted for a punishable offence and the court regards him/her as guilty, the court may nonetheless decide, given the circumstances, not to impose a punishment. Depending on the severity of the offence, it may be registered in the defendant's judicial record, regardless of whether the punishment is imposed or not, unless the case concerns a child under the age of 12, in which case there will in any event be no mention in his/her judicial record.

⁷⁶ Prime Champ transported Polish mushroom pickers to the Netherlands by bus. Immediately after arrival they were forced to sign employment contracts, which made false reference to minimum wages. The payslips that were drawn up by another company contracted by Prime Champ were falsified too. In order to receive minimum wages the pickers had to adhere to a picking standard, which was too high for most of the workers. The employment contract declared that Prime Champ would arrange accommodation and one hot meal per day and the mushroom pickers were not free to opt for a different arrangement. They worked extremely long hours and had hardly any days off. Refusing to work overtime was not possible and terminating the employment contract early made the workers liable to a fine. As of 2010, the salaries of the mushroom pickers were reduced through changes to Prime Champ's time registration system. Whenever breaks took too long they were registered and oftentimes the number of hours registered as worked was reduced by 10% to 15%.

⁷⁷ See the Directive on the use of grounds for dismissal (in Dutch): <http://wetten.overheid.nl/BWBR0035469/2014-09-01>.

208. The non-punishment principle is mentioned in the guidelines on THB for the Prosecution Service issued by the Board of Procurators-General on 21 June 2013, which state that victims should not be prosecuted or punished for offences which they have been compelled to commit as a direct consequence of their victimhood. In the course of their training, Dutch prosecutors are informed about the non-punishment principle.

209. The Residence Regulation provides that the application for a temporary residence permit will not be rejected because victims of THB have committed an offence under the influence of traffickers. As an example of this the Dutch authorities have referred to the investigation 13Ocean (see paragraph 141), in which the Roma children trafficked to the Netherlands were given residence permits.

210. According to information provided by the Dutch authorities, no victim of THB has ever been convicted of using false travel documents, as far as it has been possible to ascertain.

211. The Dutch authorities have provided GRETA with four examples of court cases in which an identified or presumed victim of trafficking was accused of taking part in the exploitation of other victims or, in one case, of theft. The courts in these cases considered the applicability of the non-punishment principle. In two cases the courts accepted that the victim had been under psychological *force majeure* and dismissed the charges against the defendants (in line with Article 40 of the CC).⁷⁸ In another case the victimhood of the defendant was taken into account and led to a reduced sentence, whereas in the fourth case, the court did not consider that the circumstances in which the victim of THB had found herself amounted to a situation in which the victim was forced to exploit other victims. In its considerations, the court took into account the nature of the coercive measures used by the trafficker, the duration of the human trafficking situation and the degree of dependence of the victim on the trafficker.

212. An academic article published in February 2017 analyses the non-application of the non-punishment provision in the "Mehak case",⁷⁹ which involved an Indian girl who had been trafficked to the Netherlands for the purpose of labour exploitation as a domestic worker and who was convicted of the manslaughter of a baby living in the household where she worked.⁸⁰ In this case, the non-punishment principle was not considered applicable by the judge. The article explores the application and limits of the non-punishment principle in relation to victims of trafficking in cases in which the victims become the perpetrators of serious crimes.

213. GRETA considers that the Dutch authorities should take further steps to ensure compliance with Article 26 of the Convention through the adoption of a provision on non-punishment of victims of trafficking for their involvement in unlawful activities, to the extent that they have been compelled to do so. Public prosecutors should be encouraged to be proactive in establishing whether a person accused is a potential victim of trafficking. Reference is made in this context to the recommendations on non-punishment for legislators and prosecutors contained in the paper issued by the OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings in consultation with the Alliance against Trafficking in Persons Expert Co-ordination Team.⁸¹

⁷⁸ Article 40 of the CC: "Any person who commits an offence under the compulsion of an irresistible force shall not be criminally liable".

⁷⁹ See paragraph 2017 of GRETA's first report on the Netherlands.

⁸⁰ Corinne Dettmeijer-Vermeulen and Luuk Esser, *The Victim of Human Trafficking as an Offender: a Combination with Grave Consequences - A reflection on the criminal, immigration and labour law procedures involving a victim of human trafficking in the Dutch Mehak case*, Journal of Trafficking and Human Exploitation, available at: https://www.dutchrapporteur.nl/binaries/The%20victim%20of%20human%20trafficking%20as%20offender_tcm24-245097.pdf

⁸¹ <http://www.osce.org/secretariat/101002?download=true>

4. Investigation, prosecution and procedural law

a. Measures related to effective investigations (Articles 1, 27 and 29)

214. In its first report, GRETA invited the Dutch authorities to further support the specialisation of judges to deal with human trafficking cases in order to continue securing high rates of convictions and sentences proportionate to the seriousness of the crime, as well as to make further use of the existing framework to seize and confiscate criminal assets in the framework of trafficking investigations at the earliest stages possible.

215. As noted in paragraph 21, there is an Aliens, Identification and Human Trafficking Unit (AVIM) in each of the 10 Regional Police Units, tasked with investigating THB offences. Nationally, 1,182 full-time employees work in the AVIMs.

216. The Expertise Centre on Human Trafficking and People Smuggling (EMM)⁸² is an agency set up in 2005 and co-run by the National Police, KMar, IND and the Inspectorate SZW. Among its tasks, the EMM pools information on suspected trafficking situations reported by the different investigation authorities. It also receives information from other organisations, including the Chamber of Commerce, the COA and the Foundation for Compliance with the Collective Agreement for Temporary Workers (SNCU). The information gathered can be used to propose the launch of investigations.

217. There is at least one senior prosecutor specialised in THB in each of the public prosecution regions, as well as at the national level Prosecution Service. Altogether there are about 20 prosecutors specialised in THB in the Netherlands. They meet regularly to discuss cases and have created an electronic communication platform for operational exchanges of information and advice. At appeal court level there are three specialised prosecutors who meet periodically.

218. There are judges specialised in THB serving within several courts in the Netherlands. Some courts, such as the Court of Amsterdam, have a specialisation in THB offences, with approximately 20 out of its judges dealing with THB cases.

219. GRETA was informed that there were 278 investigations into THB in 2014 and 217 in 2015.⁸³ In 2014, 193 persons were prosecuted for THB and in 2015 the corresponding figure was 184. In 2014, 129 persons were convicted of THB, and in 2015, 124. Some 90% of the convictions involved effective imprisonment. The average sentences ranged between one year and a half and two years' imprisonment (excluding the suspended parts of the prison sentences). The decreasing number of prosecutions is mainly caused by the decreasing number of cases brought to the prosecutors by the police. The prosecutors referred to an acquittal rate of about 30% in THB cases, which is lower than for other types of serious crime.

220. Criminal investigators of the Inspectorate SZW can carry out criminal investigations into trafficking for the purposes of labour exploitation in co-operation with the Public Prosecutor.⁸⁴ There were 10 criminal investigations by the SZW in 2015, involving 44 suspected victims of THB, and 17 investigations in 2016, involving 41 suspected victims. All indications of possible THB for the purpose of labour exploitation are discussed in the central notification meeting, which comprises the Public Prosecutor and the Criminal Investigation Directorate of the SZW. If as a result of further investigations the suspicions become more substantiated, prosecution will follow. If prosecution does not seem feasible, the SZW will settle the case under administrative law.

⁸² See paragraph 33 of GRETA's first report on the Netherlands.

⁸³ These figures refer to the number of suspected perpetrators in THB cases investigated, as registered by the Public Prosecution Service.

⁸⁴ For further details see paragraph 226 of GRETA's first report on the Netherlands.

221. The Regional Information and Expertise Centres (RIEC) and the National Information and Expertise Centre (LIEC) were established in order to support municipalities in their fight against organised crime by pooling together intelligence on organised crime from different partner agencies.⁸⁵ The RIECs provide the municipalities with advice and assistance in applying administrative instruments and in reinforcing co-operation and exchange of information between investigating parties and administrative parties. The RIECs gather, analyse and process information on cases of THB, which they have received from the municipalities, the Public Prosecution Service, the National Police, the Tax Administration, the Customs Administration, the Fiscal Information and Investigation Service, the Inspectorate SWZ, KMar and IND. The RIECs signed the RIEC Covenant in 2014, which provides rules for the processing and sharing of personal data. The LIEC has a similar task at the national level.⁸⁶ The Centres focus on the national priority themes determined by the Ministry of Justice and Security on the basis of the 2012 National Threat Assessment on Organised Crime. These themes include THB.

222. In the previously mentioned operation 13Oceans (see paragraph 141), the Dutch Prosecution Service and the police co-operated in the investigation with colleagues from Austria, Bosnia and Herzegovina, Croatia and Spain. This led to the prosecution of a family accused of exploiting seven Roma children. There is still no final judgment in this case. The 13Oceans operation is considered to be an example of best practice as regards co-operation between different countries in prosecuting perpetrators and protecting victims of THB.

223. Representatives of civil society met by GRETA were of the opinion that the police tend to prioritise THB investigations which are more likely to lead to successful prosecution (e.g. involving victims from countries with which there is good police co-operation, for example in Central Europe). Linked to the anticipated degree of difficulty and success of the investigations is the cost of pursuing them, which reportedly also plays a role in the prioritisation process. As regards cases of THB for the purpose of labour exploitation, the Manual for Experts on Multidisciplinary Co-operation against Trafficking in Human Beings for Labour Exploitation (see paragraph 73) encourages prosecution services to use a system to select cases that are most likely to lead to conviction, in order not to waste scarce resources.⁸⁷

224. Prosecutors met by GRETA noted that sexual exploitation of children is frequently not registered by police as THB but as "sexual abuse of children against payment under Article 248b of the CC,. Reference can be made to the case of a 16-year old girl in Valkenburg who was offered for sexual services by a pimp, with some 80 clients involved. Although the Prosecution Service asked for a more severe penalty, the district court sentenced the main perpetrator to one day of conditional imprisonment as well as to community service. The sentence was upheld by the Appeal Court and later also by the Supreme Court.⁸⁸ The National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children in her report on the implementation of Article 248b (see paragraph 98) notes that the Valkenburg case increased attention to the crime of paid sex with children and that in its aftermath, more severe sentences have been given in other similar cases.

225. According to the Directive on THB of the Public Prosecution Service, a financial investigation must always be conducted in a THB case. The assets of a perpetrator can be seized after conviction but also before judgement has been reached, in order to ensure payment of a claim.

⁸⁵ See paragraph 70 of GRETA's first report on the Netherlands.

⁸⁶ See paragraph 63 of GRETA's first report on the Netherlands.

⁸⁷ TeamWork! Manual for Experts on Multidisciplinary Co-operation against Trafficking in Human Beings for Labour Exploitation, page 41.

⁸⁸ Court decision ECLI:NL:HR:2018:202, see: <https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:HR:2018:202>

226. The use of special investigative techniques is regulated by the Code of Criminal Procedure (CPC). For the use of some techniques, the National Police needs permission from a judge or a prosecutor. For example, the communications of a suspect of a serious crime may be recorded (authorised by the prosecutor (Article 126l of the CPC) or a judge (Article 126m of the CPC)).⁸⁹ Controlled deliveries are not allowed in a THB context.

227. The additional funds made available by the Ministry of Justice and Security from 2017 onwards (see paragraph 23) will also be used to further develop an existing digital application (WebCrawler) that may be used by investigators to, for example, detect online signs of THB, including in online advertisements.

228. As regards sexual abuse transmitted by online streaming, such offences can be prosecuted in the Netherlands as long as there is some link to the Netherlands. No online abuse cases have yet been investigated or prosecuted as THB.

229. The notice and take-down procedure for inappropriate content on the Internet may be used to urgently request the provider or administrator of a website to take the website or parts of it offline when it contains criminal content. Experience shows that these requests are complied with in most cases. If a request is not complied with voluntarily, the provider or administrator may be forced to comply through the procedure contained in Article 54a of the CC. In practice, this presupposes that the server in question is located in the Netherlands. GRETA was informed that it was not necessary for the authorities to block or close any websites because of possible THB-related issues during the reporting period.

230. GRETA notes with concern the decreasing number of prosecutions and convictions for THB and considers that the Dutch authorities should ensure that THB offences for all types of exploitation are proactively investigated and prosecuted, regardless of the origin of the victims or the complexity and costs of investigating the case, leading to proportionate and dissuasive sanctions, by continuing to build the capacity and specialisation of police officers, prosecutors and judges, and ensuring sufficient funding for investigations.

b. Protection of witnesses and victims (Articles 28 and 30)

231. In its first report, GRETA invited the Dutch authorities to examine why its protection programme for victims and witnesses of THB had not been used and to ensure that full use is made of it wherever required.

232. The Dutch authorities have reported one case since 2013 in which the witness protection programme for victims of THB was used and have explained that the reason why it has not been used more often is that entering this programme has far-reaching consequences for victims, as it requires the victims to break all ties with their past. Prosecutors met by GRETA were of the opinion that the existing shelters for victims of THB are quite safe and that additional protection measures can be taken, without applying the full scale witness protection programme. In cases where more protection is needed prosecutors will try to use measures which are as unobtrusive as possible. Such less intrusive measures include not using the victim's name in court papers, allowing the victim to use a police station as his/her address or using ways to screen the victim from being seen in the courtroom, in order to avoid a confrontation with the suspect.⁹⁰ The police and prosecutors can make arrangements with their counterparts in other countries to move a victim and/or witness of crime in need of protection to a location abroad. However, some representatives of the national police were of the opinion that one reason for some victims of THB being reluctant to co-operate is that they cannot be offered sufficient protection against the perpetrators, especially after the criminal proceedings are over.

⁸⁹ See paragraph 224 of GRETA's first report on the Netherlands.

⁹⁰ For further protection measures in court, see paragraphs 234-236 of the first GRETA report on the Netherlands.

233. Victims of THB are as a rule not heard in open court hearings, but instead video links are used. Initial statements made by victims to the police can be used as evidence. If a victim of THB is also a perpetrator beyond the limits of the non-punishment principle, then s/he will be a defendant in a separate trial and will not stand trial together with the person who victimised him or her.

234. Article 51c of the CPC determines that apart from a lawyer, victims may have any person of their choice present during the investigation and the trial.⁹¹ Legal assistance is free of charge for victims of THB (see paragraph 174).

235. GRETA invites the Dutch authorities to make full use of all measures available to protect victims and witnesses of THB to prevent retaliation and intimidation during investigation and/or after the court proceedings.

c. Jurisdiction (Article 31)

236. According to Article 2 of the CC, Dutch criminal law applies to any person who commits an offence in the Netherlands, regardless of whether or where any complaint was submitted, including on board a vessel that is flying the Dutch flag or an aircraft that is registered under Dutch law at the time that the offence is committed (Articles 2(2) and 3 of the CC), and when an offence is committed against a Dutch national or by a Dutch national or an alien who has his or her habitual residence in the Netherlands (Articles 5(1), 7(1), 7(3) and 6(1) of the CC and Articles 3(1a), 3(1b), 3(1c), 3(3), 3(4) and 4(5) of the Decision on international obligations extraterritorial jurisdiction). Article 6 of the CC determines that the CC applies to anyone who commits a crime outside of the Netherlands insofar as a treaty or decision of an international organisation that has been designated by implementing regulation requires the establishment of jurisdiction, i.e. the Decision on international obligations extraterritorial jurisdiction. This implementing regulation should also describe the crimes with regard to which the treaties or decisions of international organisations designated by the regulation require the establishment of jurisdiction.

5. International co-operation and co-operation with civil society

a. International co-operation (Article 32 and 33)

237. The Dutch Ministry of Justice and Security has concluded memoranda of understanding (MoUs) on co-operation against organised crime with several countries. The MoU with China specifically mentions THB. In addition, the Public Prosecution Service of the Netherlands has concluded MoUs with the prosecution services in Bulgaria, Romania and the Philippines on co-operation to fight organised crime, including THB.

238. In the reporting period the Netherlands has taken part in nine Joint Investigation Teams (JIT) in THB cases, eight for the purpose of sexual exploitation and one for the purpose of labour exploitation/criminal activities. Four of these JITs are on-going, involving Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Hungary and Romania. The JITs with Hungary and Romania have resulted in handbooks for mutual co-operation between police and prosecutors in the Netherlands and those of the two partner countries.

⁹¹ The police, a prosecutor or a judge could prohibit a specific person from representing the victim, but there must be a good reason for doing so, and it seldom happens.

239. During its EU-Presidency in 2016, the Netherlands set up an anti-THB project together with the preceding EU presidency, Luxembourg, and the subsequent two presidencies, the Slovak Republic and Malta. The project was called TeamWork! and produced a manual on multidisciplinary co-operation against THB for labour exploitation (see paragraph 73) that includes expertise from all EU Member States. The manual was presented during a multidisciplinary conference held on 18-19 January 2016 in Amsterdam.

240. The Inspectorate SZW has co-organised Joint Action Days on THB for Labour Exploitation in 2016 and 2017, as part of the EMPACT-project on THB.⁹² On 13–20 May 2017, law enforcement agencies, labour inspectorates, immigration services, tax authorities and other partners in 26 countries joined the action days. As a result of the checks undertaken, 133 suspects were detained for offences including THB and illegal immigration, 221 possible victims of THB were detected and 44 new investigations were launched. The operation targeted a broad range of commercial sectors such as transportation, agriculture, construction, maritime, food processing and catering. There will be action days again in May 2018.

241. The Netherlands co-operates with Belgium within the framework of the EU-funded CONFINE project.⁹³ The aim of the project is to strengthen administrative resilience against THB and it focuses on financial information as an indication of THB. The main goals of the project are to gain insight in possible financial indicators of THB by carrying out financial screening of certain business sectors, to create awareness about THB among municipalities and to research the possibilities for exchange of administrative information as part of the overall goal of fighting THB.

242. The RAVOT Project between the Hungarian Ministry of the Interior, the Dutch Ministry of Justice and Security and the Belgian NGO Payoke, which ran from 1 February 2014 to 31 January 2016, aimed at developing a transnational referral mechanism between Hungary, Belgium and the Netherlands to provide referral, assistance and safe return of victims trafficked for the purpose of sexual and labour exploitation.

243. The "Project SAFE!" is led by NGO HVO Querido (which also runs the COSM shelter in Amsterdam) and brings together IOM and partners in the Netherlands, Bulgaria, Hungary and "the former Yugoslav Republic of Macedonia", as well as the Dutch National Police. The overarching goal of this project is to ensure the safe return and sustainable re-integration of victims of THB and to enable their early and adequate detection and protection in the context of the current asylum and migration processes within the EU.

244. The Netherlands financially supports the UNDP, in the region in and around Syria, in its efforts to support refugees and host communities for refugees, as well as the EU's Regional Development and Protection Programme (RDPP)⁹⁴ in the Horn of Africa, both of which aim to reduce the risk of displaced persons falling victims of THB.

245. The Ministry of Foreign Affairs provides funding for various projects in Africa, some of which include as objectives prevention of THB by addressing root causes. Dutch embassies monitor the implementation of such projects and make suggestions for adjustments where appropriate. The MFA has a particular fund for projects aimed at combatting child labour.

⁹² <https://www.europol.europa.eu/crime-areas-and-trends/eu-policy-cycle-empact>

⁹³ <http://www.qenk.be/confine>

⁹⁴ <https://www.khartoumprocess.net/operations/31-regional-development-protection-programme-rdpp-horn-of-africa>

246. The International Child Abduction Centre in the Netherlands is responsible for operating the EU 116000 hotline for missing children. The Dutch authorities issue alerts about missing persons in the Schengen Information System. For urgent alerts on missing children, the Netherlands has an Amber Alert system in place.⁹⁵

247. GRETA welcomes the involvement of the Netherlands in developing international co-operation in combating THB, the recourse had to JITs and the funding of projects in victims' countries of origin, and encourages the Dutch authorities to further develop multilateral and bilateral co-operation in combating THB.

b. Co-operation with civil society (Article 35)

248. The NGO CoMensha, which acts as the co-ordination centre for THB, has been a member of the Anti-trafficking Task Force since its creation. Since November 2016, a representative of the Strategic Meeting on Human Trafficking (SOM),⁹⁶ a co-operation of social care institutions that deal with shelter, counselling and representation of the interests of victims of trafficking, also attends the meetings of the Task Force. SOM was consulted by the Dutch authorities and provided written proposals for the preparation of the forthcoming National Action Plan.

249. NGOs play an important role in the provision of assistance to victims of THB, with funding provided by municipalities, the Ministry of Social Affairs, the Ministry of the Interior and private sponsors. There is also some funding available from the national lottery. However, the financial support for CoMensha needs to be re-applied for every year and many NGOs receive project-based funding, which results in NGOs spending a relatively large share of their time preparing project applications. Project funds can be used for hiring staff.

250. The largest trade union of the Netherlands, the FNV, was involved in the project TeamWork! (see paragraph 73).

251. Given the important role played by civil society in implementing anti-trafficking activities and supporting victims of THB, GRETA invites the Dutch authorities to ensure that civil society is adequately consulted when any new anti-trafficking policies, including national action plans, are prepared.

⁹⁵ <https://www.amberalert.nl/>

⁹⁶ See paragraph 62 of GRETA's first report on the Netherlands.

IV. Conclusions

252. Since the adoption of GRETA's first report on the Netherlands in March 2014, progress has been made in a number of areas.

253. The Dutch authorities have continued to build the institutional framework for combating trafficking in human beings and to develop specialisation among competent authorities to deal with human trafficking. The composition of the Task Force on Human Trafficking has been expanded and a national network of regional care co-ordinators of the assistance provided to victims of trafficking has been set up.

254. GRETA welcomes the training on human trafficking provided to an increasing range of relevant professionals in the Netherlands and the additional funding allocated to training, as well as to increasing the number of police detectives certified to investigate cases of human trafficking and to increase the capacity and expertise of the Public Prosecution Service to deal with such cases.

255. Wide-ranging research related to trafficking in human beings has been carried out by the Office of the National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children, academic institutions and NGOs.

256. GRETA commends the awareness-raising campaigns concerning trafficking for different forms of exploitation and the steps taken to strengthen co-operation in the field of labour migration.

257. Another positive development is the increased resources given to the Inspectorate SZW, which can be expected to have a preventive effect on trafficking for the purpose of labour exploitation, as well as the various measures to prevent labour exploitation, in particular of migrant workers.

258. Further, GRETA welcomes the campaigns and projects implemented with the aim of preventing trafficking in children. Efficient procedures have been put in place for appointing guardians to unaccompanied or separated children. Moreover, there are clear procedures in place for tracing missing children.

259. The setting up of the Victim Identification Board as a pilot project providing a model of multidisciplinary identification of victims of human trafficking is another example of action taken to meet the recommendations made by GRETA.

260. Particular attention has been paid to victim compensation and there have been many decisions by courts ordering perpetrators to pay compensation to victims of trafficking. Victims who do not receive compensation in any other way can obtain compensation from the Violent Offences Compensation Fund and about 90% of victims of human trafficking who have applied for compensation from the fund have been awarded compensation.

261. Successful use has been made of existing legislation for prosecution of offences related to human trafficking committed by legal entities.

262. GRETA also welcomes the efforts made by the Netherlands in the area of international co-operation, including through police and judicial co-operation, funding of projects in countries of origin of victims and keeping the fight against human trafficking high on the international agenda.

263. However, despite the progress achieved, some issues give rise to concern. In this report, GRETA requests the Dutch authorities to take further action in a number of areas. The position of the recommendations in the text of the report is shown in parentheses.

Issues for immediate action

- **GRETA urges the Dutch authorities to adopt a new National Action Plan against THB as a matter of priority and to support it with the necessary budgetary resources** (paragraph 26);
- **GRETA once again urges the Dutch authorities to ensure, in line with Article 12 (6) of the Convention, that assistance provided to foreign victims of THB is not linked to investigations or prosecutions being pursued** (paragraph 130);
- **GRETA once again urges the Dutch authorities to take additional steps to ensure that, in compliance with the obligations under Articles 10, 12 and 13 of the Convention, all possible foreign victims of trafficking, including EU/EEA nationals, are consistently offered a recovery and reflection period, regardless of the competent authorities dealing with the case. To this end, the Dutch authorities should ensure that the legislation and instructions are harmonised and unambiguous as regards the right of foreign EU trafficking victims to a recovery and reflection period** (paragraph 163).

Further conclusions

- **Taking into consideration the decreasing number of identified presumed victims of THB, GRETA invites the Dutch authorities to continue their efforts to train relevant professionals, especially those of the Police, KMar, the Inspectorate SZW, medical professionals and municipal staff who may come into contact with victims of THB** (paragraph 46);
- GRETA considers that the Dutch authorities should provide guidance to NGOs and professionals likely to come across victims of THB about the legislation on data protection in order to avoid breaches of data protection legislation and ensure that all presumed victims of THB are reported (paragraph 49);
- GRETA considers that the Dutch authorities should ensure that data on THB are made available in a timely manner to serve as an evidence base for future policy measures (paragraph 50);
- GRETA invites the Dutch authorities to continue ensuring that the Office of the National Rapporteur has sufficient human and financial resources to carry out research (paragraph 59);
- GRETA considers that the Dutch authorities should continue to increase the level of general awareness and provide information on how to forward information on human trafficking to relevant institutions and help possible victims receive assistance (paragraph 64);
- GRETA considers that the Dutch authorities should **continue to sensitise relevant officials about THB for the purpose of labour exploitation and target sectors at heightened risk of THB for the purpose of labour exploitation, including the transport sector, as well as work closely with trade unions, civil society and the private sector to raise awareness of trafficking for the purpose of labour exploitation, prevent trafficking in supply chains and strengthen corporate social responsibility, drawing on the Guiding Principles on Business and Human Rights and Recommendation CM/Rec(2016)3 on human rights and business** (paragraph 77);
- GRETA considers that the Dutch authorities should take further steps to ensure that schools and education professionals play a role in preventing THB among children, including by making available relevant teaching materials (paragraph 85);
- GRETA considers that the Dutch authorities should ensure that, as part of their training, medical professionals involved in organ transplantations and other relevant professionals are sensitised about THB for the purpose of organ removal (paragraph 92);
- GRETA encourages the Dutch authorities to sign and ratify the Council of Europe Convention against Trafficking in Human Organs, which would contribute to the prevention of trafficking for the purpose of organ removal (paragraph 93);

- GRETA considers that the Dutch authorities should **make further efforts to discourage demand for the services of trafficked persons, for all forms of exploitation, in partnership with the private sector and civil society, including trade unions and employers** (paragraph 100);
- GRETA considers that the Dutch authorities should step up their efforts to **detect possible victims of THB at border crossings**, including at airports, in particular at times of increased migration flows (paragraph 105);
- GRETA considers that the Dutch authorities should make further efforts to **ensure that all victims of trafficking are identified as such and can benefit from the assistance and protection measures** contained in the Convention, in particular by:
 - ensuring that, in practice, the identification of victims of THB, upon which assistance measures depend, is not linked to the prospects of the investigation and prosecution;
 - ensuring that the “slightest indication” criterion for identifying victims of trafficking is applied consistently by the police, KMar and the Inspectorate SZW, regardless of the purpose of the exploitation;
 - continuing to strengthen multi-agency involvement in the identification of victims of trafficking by formally recognising the role of specialised NGOs in the decision-making process leading to identification;
 - keeping under review the effectiveness of the Victim Identification Board;
 - reviewing the mandate of the Aliens, Identification and Human Trafficking Units (AVIMs) of the Police which a view to separating the identification of victims of THB from the investigation of irregular migration;
 - strengthening efforts to proactively identify victims of trafficking by reinforcing the capacity and training of the police, KMar, the Inspectorate SZW and IND;
 - increasing the capacity of relevant professionals in municipalities to detect victims of THB;
 - paying increased attention to the identification of victims of trafficking among asylum seekers and persons placed in immigration detention, allowing sufficient time to gather necessary information and taking into account their traumatic experience (paragraph 118);
- GRETA considers that the Dutch authorities should ensure that the assistance provided to victims of THB is adapted to their specific needs and that minimum standards are guaranteed across the country, regardless of the service provider and which municipality is responsible for arranging the assistance measures. When specialised assistance is delegated to NGOs, the State has an obligation to provide adequate funding and monitor the quality of the assistance services provided (paragraph 131);
- GRETA invites the authorities of to review the age assessment procedures, ensuring that the best interests of the child are effectively protected and taking into account the Convention on the Rights of the Child and General Comment No. 6 of the Committee on the Rights of the Child (paragraph 153);
- GRETA considers that the Dutch authorities should to **make further efforts to improve the identification of and assistance to child victims of trafficking**, in particular by:
 - developing a National Referral Mechanism for child victims of THB which takes into account the special circumstances and needs of child victims, involves child specialists and ensures that the best interests of the child are the primary consideration in all proceedings relating to child victims of THB and children at risk;

- ensuring that relevant actors take a proactive approach and increase their outreach work to identify child victims of THB by providing further training to stakeholders and guidance on the identification of child victims of THB, based on an agreed understanding of the concepts of trafficking for the purpose of forced begging, forced criminality and trafficking through the use of early, child or forced marriages;
- ensuring long-term monitoring of the reintegration of child victims of trafficking;
- ensuring that proper risk assessment is conducted before returning children to their parents, taking into account the best interests of the child (paragraph 155);
- GRETA considers that the principle of the best interests of the child should be fully respected at all times and the Dutch authorities should keep under review the application of the restrictive regime implemented by some of the regular youth care facilities (paragraph 156);
- GRETA considers that the Dutch authorities should clarify relevant data protection rules to stakeholders who might come across victims of THB, including NGOs and members of certain professions such as youth care professionals, including by making relevant legislation and rules part of the training of relevant professionals about THB (paragraph 158);
- GRETA considers that the Dutch authorities should ensure that victims of trafficking can fully benefit in practice from the right under Dutch law to obtain a renewable residence permit when they are unable to co-operate with the authorities, and to raise awareness of this possibility among relevant professionals and victims (paragraph 170);
- GRETA invites the Dutch authorities to continue training relevant professionals with a view to facilitating access to compensation, including in cases of THB for the purpose of labour exploitation (paragraph 179);
- GRETA considers that the Dutch authorities should further develop co-operation with countries of origin of victims in order to ensure comprehensive risk and security assessment (and safe return of victims of THB, as well as effective reintegration on return, taking into account the UNHCR's Guidelines on the application of the Refugees Convention to trafficked people, and by fully respecting the principle of the best interests of the child (paragraph 187);
- GRETA once again invites the Dutch authorities to criminalise the use of services of a victim of THB, with the knowledge that the person is a victim of THB (paragraph 199);
- GRETA considers that the Dutch authorities should continue to make full use of the possibilities provided in law for prosecuting THB offences committed by legal entities (paragraph 204);
- GRETA considers that the Dutch authorities should take further steps to ensure compliance with Article 26 of the Convention through the adoption of a provision on non-punishment of victims of trafficking for their involvement in unlawful activities, to the extent that they have been compelled to do so. Public prosecutors should be encouraged to be proactive in establishing whether a person accused is a potential victim of trafficking (paragraph 213);
- GRETA considers that the Dutch authorities should ensure that THB offences for all types of exploitation are proactively investigated and prosecuted, regardless of the origin of the victims or the complexity and costs of investigating the case, leading to proportionate and dissuasive sanctions, by continuing to build the capacity and specialisation of police officers, prosecutors and judges, and ensuring sufficient funding for investigations (paragraph 230);
- GRETA invites the Dutch authorities to make full use of all measures available to protect victims and witnesses of THB to prevent retaliation and intimidation during investigation and/or after the court proceedings (paragraph 235);
- Given the important role played by civil society in implementing anti-trafficking activities and supporting victims of THB, GRETA invites the Dutch authorities to ensure that civil society is adequately consulted when any new anti-trafficking policies, including national action plans, are prepared (paragraph 251).

Appendix

List of public bodies, intergovernmental organisations, non-governmental organisations and other civil society actors with which GRETA held consultations

Public bodies

- Ministry of Justice and Security
- Ministry of Health, Welfare and Sports
- Ministry of Foreign Affairs
- Ministry of Education, Culture and Science
- Ministry of the Interior and Kingdom Relations
- Ministry of Social Affairs and Employment
- Public Prosecution Service
- Court of Amsterdam
- National Police
- Royal Netherlands Marechaussee (KMar)
- Labour Inspectorate SZW
- Immigration and Naturalisation Service
- Central Agency for the Reception of Asylum Seekers
- National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children
- Expertise Centre on Human Trafficking and People Smuggling
- Police Academy
- Violent Offences Compensation Fund
- Municipal authorities of the City of Rotterdam
- Municipal authorities of the City of the Hague

Intergovernmental organisations

- United Nations High Commissioner for Refugees (UNHCR)
- United Nations Children Fund (UNICEF)
- International Organization for Migration (IOM)

NGOs and other civil society organisations

- National Information and Expertise Centre (LIEC)
- Strategic Meeting on Trafficking in Human Beings (SOM)
- Sex Worker/Advice Associations
- The Netherlands Trade Union Federation (FNV)

Government's comments

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

GRETA engaged in a dialogue with the Dutch authorities on a first draft of the report. A number of the authorities' comments were taken on board and integrated into the report's final version.

The Convention requires that "the report and conclusions of GRETA shall be made public as from their adoption, together with eventual comments by the Party concerned." GRETA transmitted its final report to the authorities on 31 July 2018 and invited them to submit any final comments. The comments of the authorities, submitted on 24 September 2018, are reproduced hereafter.

Ministry of Justice and Security

> Return address Postbus 20301 2500 EH The Hague

Ms. Petya Nestorova
Council of Europe
Secretariat of the Council of Europe Convention on Action against Trafficking in
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Date 16 October 2018
Concerning Comments to the report concerning GRETA's second evaluation on the
Netherlands

Contact

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Dear Ms Nestorova,

The Netherlands would like to thank the Group of Experts on Action against Trafficking in Human Beings (GRETA) for its second evaluation on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings in the Netherlands. The process to come to this report has been intensive and the Netherlands would like to thank GRETA, and especially the delegation of GRETA that came to the Netherlands (composed of Mw. Dorothea Winkler, Dhr. Ola Laurell, Dhr. Mats Lindberg) for its very constructive cooperation during this process.

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*Please quote date of letter
and our ref. when replying. Do
not raise more than one
subject per letter.*

The Netherlands is pleased with the contents of and the recommendations contained in the final report. The report recognises the progress that has been made in many different areas since the adoption of GRETA's first report on the Netherlands in March 2014.

The recommendations offer valuable information to strengthen specific aspects of our approach. This information will be used in our new national action plan, that is currently being developed. Many issues mentioned in the recommendations are already included in this action plan.

Attached to this letter you will find some more detailed comments on GRETA's report.

Yours sincerely,

Minister for Migration



Mark Harbers

Comments of the Netherlands to the 2018 Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings

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Paragraph 26

Combatting human trafficking is a priority of this government. All relevant ministries are committed to the development of a new National Action Plan. Therefore, the plan is being developed with great urgency. As mentioned by GRETA in paragraph 26, this action plan is being developed in close co-operation with all relevant partners, both governmental and non-governmental. This process takes time. But it is of great importance to have the cooperation and support of all relevant stakeholders, to be able to present an effective plan this autumn.

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Paragraphs 49 and 158

As part of the new national action plan, a project leader will be appointed who will make an inventory of methods and generic work processes in the field of combatting human trafficking in which information sharing plays a role. He will describe how to act in accordance with current legal frameworks. Part of the assignment is also to draw up a communication and implementation strategy to publicise the ways in which the relevant partners can share information under the General Data Protection Regulation (GDPR).

In order to be allowed to report victims to CoMensha, permission from those victims is required in accordance with the GDPR. Because many victims do not want to give permission, a second estimate will be made of the number of trafficking victims. Last year, the National Rapporteur published a first estimate in cooperation with UNODC.

Paragraph 76 & 77

There is a lot of attention for training both detectives and inspectors of the Inspectorate SZW. For example, labour market fraud inspectors also partake in the labour exploitation programme so that more attention can be paid to signs of serious labour exploitation in their inspections. The occupational health inspectors are also trained in signs of labour exploitation.

There is more collaboration with external parties. This year, the Joint Action Days took place in the week of 14-19 May. 28 countries participated in this action organised by Europol. During this week, EU inspections have taken place. The Inspectorate SZW, together with the Netherlands Food and Consumer Product Safety Authority (NVWA), Tax and Customs Administration and police, held an inspection at a meat processing company in which 11 possible victims of labour exploitation were found. Another action concerned various international checks on cross-border traffic between the Netherlands and Belgium. Various violations were identified here and a number of modus operandi have also been confirmed. Further EU elaboration of the results will follow. As an experiment, the Inspectorate also collaborated with the municipalities of The Hague, Rotterdam and Utrecht. These municipalities focused on housing.

The Inspectorate conducts research and analysis of vulnerable groups for labour exploitation to see if there are any points of reference for interventions. The Inspectorate SZW then considers which interventions may be used to prevent these groups from becoming victims. In 2017, the vulnerable groups investigated consisted of asylum seekers, minors and people with a mild intellectual disability. A meeting on the outcomes of the study of these vulnerable groups took place on 16 May 2018. Attendees included health care institutions, the Salvation Army and the Central Agency for the Reception of Asylum Seekers (COA). The most

important intervention is raising awareness among these institutions and organisations. These and other proposals were further elaborated and implemented.

In 2018, the Inspectorate SZW will focus on domestic work and Filipinos. Regarding Filipinos, interventions with partners are being developed on the basis of the barrier model. An expert meeting organised by the Inspectorate and the Ministry of Foreign Affairs took place on 25 May. The main question was how to prevent abuse of short-stay visas. Through a brainstorm session with the participants, possible preventive measures based on the barrier model were identified.

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Paragraph 83

This legislation has been adopted by parliament and will enter into force on 1 January 2019.

Paragraph 96

The mentioned Act is still under debate in Parliament. The new government agreement will add two new topics to the Act (an obligatory intake consultation for sex workers and an individual permit).

Paragraph 99

Since the report was written, new sectors have concluded an RBC-agreement, such as the food sector (June 2018) and the insurance sector (July 2018).

Paragraph 100

In the meantime, the Netherlands has made further efforts to stimulate companies to (recognise and) identify, prevent and mitigate risks like forced labour in their supply chains via its RBC-agreements. For example: the Textile covenant has started a pilot to discourage child labour and started a joint project called 'living wage'. Secondly, the parties in the Dutch Banking Agreement have published a report this month (August 2018) with value chain mapping on the role of banks in chains of cocoa and how to counter human rights violations, such as child labour. The report contains recommendations for parties and affiliated banks. A third example is the covenant Responsible Gold, where electronics companies and civil society organisations have jointly started a project to combat child labour in small-scale gold mines in Uganda, with the aim of integrating the gold sourced from these mines into companies' supply chains.

The Inspectorate SZW is actively looking for partnerships with companies in the private sector. The research, funded by SZW for the Inspectorate SZW, with a large bank is a good example of such a partnership.

As part of the labour exploitation program, there will also be further efforts to involve the supply chain. An example is a case with the Public Prosecution Service (PPS) on launderettes where KHN (the Royal Association of Businesses in the Catering and Related Industry) was invited to a session and a follow-up meeting. This then also led to an article in their industry magazine.

Paragraph 105

The KMar aspires to an increased commitment regarding its efforts to detect possible victims of THB at border crossings and airports, as soon as additional capacity becomes available. Finally, the actual deployment of this additional capacity will be determined after consultation and in coordination with the relevant authorities.

Paragraph 109

The Inspectorate SZW is also, materially, authorised to grant recovery and reflection periods. However, only the police and the KMar possess the formal competence to do so.

Paragraph 113

This protocol has been developed in the asylum center in Ter Apel, but is currently applied in all asylum application centers.

Paragraph 114

It should be taken into consideration that the reasons victims of THB opt for the asylum procedure or the Residence Regulation are hard to analyse. The assumption that the asylum process offers better prospects of long-term residence has not been substantiated.

It is true that few THB cases lead to actual prosecution, but the assumption that residence permits are usually not granted does not correctly reflect the Residence Regulation. The reflection period is offered to a victim on the slightest indication, and a residence permit is granted immediately after the victim reports a case to the police. When the criminal charges are dismissed, the residence permit will be revoked but the victim is given the opportunity to apply for a non-temporary residence permit on personal circumstances.

Paragraph 118

Second bullet:

All relevant agencies are instructed to treat a person as a presumed victim of trafficking when there is the "slightest indication" of THB and to report all such cases to the NGO CoMensha. Different agencies (police, KMar, SZW, IND) have developed their own sets of indicators for the identification of victims of THB, the differences being due to the fact that these agencies usually come across THB for different forms of exploitation. Because there were differences in the reporting rate, CoMensha developed its own set of criteria which are now used by all reporting agencies.

Fifth bullet:

The fight against human trafficking is a legal task of the Dutch police, whereas combatting human smuggling is a legal task of the KMar (Royal Netherlands Marechaussee). Additionally, the Dutch police is engaged in the fight against human smuggling when it becomes a structural problem in the asylum chain and as such a serious threat to security. The KMar in turn is engaged in the fight against human trafficking when it occurs within the scope of their legal task.

The Dutch police has undertaken several initiatives to increase its expertise in human smuggling. In the working agreement between the police and the KMar, the cooperation, provision of assistance and information exchange with regard to the fight against trafficking in human beings has been regulated. The police and the KMar consult each other on these matters on a structural basis.

Paragraph 121

To clarify: when a victim of human trafficking is not able to cooperate with the investigation and prosecution because of trauma, a psychological or physical condition or security risks (i.e. the conditions of the so-called 'schrijnend pad' ('harrowing path')), the victim will receive a temporary residence permit for a year. The non-ability to cooperate has to be substantiated by declarations of the police and/or a medical practitioner. After this year, the person can apply for a permanent residence permit (residence permit on humanitarian grounds).

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One of the changes which will be made in the Aliens Circular 2000 (B) is the addition of minority (i.e. being underage) as a possible condition of not being able to cooperate with the investigation. This will enter into force on October 1st.

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Paragraph 125

It is not true that there are no clear arrangements for support and accommodation beyond the three month reflection period. It is regulated by law that victims who receive a temporary residence permit after the reflection period are the responsibility of the municipality and are entitled to regular care. Finding a match between 'supply and demand' for shelter can sometimes be problematic for the professionals in the COSMs. However, it is a legal responsibility of the municipality to provide follow-up shelter and assistance after the three-month period. In some municipalities, clear arrangements are in place.

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As for the solutions being "ad hoc", this has to do with the fact that the Social Support Act aims to facilitate that victims are provided with assistance and shelter in line with their needs and are not given 'one size fits all' solutions.

Paragraph 130

The Netherlands agrees with the fact that victims of THB need to have access to the right facilities. However, for foreign victims of THB the Council of Europe Convention gives parties the option of granting a residence permit because of the victim's cooperation in the prosecution of a perpetrator or because of the individual's personal situation. The Netherlands offers both options. The Convention therefore offers the possibility to maintain the link between the residence permit and prosecution.

We thus have some problems with this recommendation of GRETA. The Netherlands aims to maintain a balance between the prosecution of perpetrators and the assistance and care for victims. Practically this balance is maintained as follows: even the slightest indication of THB gives foreign victims access to specialised shelter and assistance. During the three-month reflection period, as part of the regulation for victims of trafficking in human beings, possible victims get assistance without having to cooperate with the investigation. After this period, or sooner, possible victims of THB can get a residence permit for trafficking in human beings. Part of the changes which will be made in the Aliens Circular 2000 (B) will entail that victims of human trafficking will receive a permanent residence permit when the Public Prosecution Service (PPS; OM) proceeds to the prosecution of a suspect. A victim who currently cooperates in the investigation will receive a permanent residence permit after the conviction of a perpetrator or when the court case takes three years or longer. This will give the possible victim more certainty in the future. These changes will enter into force on October 1st of this year.

When prosecution is not pursued, the possible victim can apply for a residence permit on humanitarian grounds. This procedure also examines if assistance and care is available in the country of origin. In practice, this process takes a couple of months. During this time assistance is still provided.

Finally, a pilot project is currently being carried out to develop a model of multidisciplinary identification of victims of THB. When a person has cooperated with the investigation but no prosecution takes place or the suspect has been acquitted, he or she can apply for this pilot. The person receives an opinion on the likelihood that he or she is a victim. This opinion can be used to apply for a residence permit.

Paragraph 141

The police still has capacity to investigate cases of criminal exploitation of minors. Currently there are several cases under investigation. Also a national, operational expert group has been set up. Both law enforcement and care partners such as the child protection service and youth care services participate in this group.

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Paragraph 142

Youthcare organisations offer care and housing for children who need help or protection. The municipalities are responsible for taking care that these provisions are available. Sometimes problems are so complex or situations ask for specific action, specialised care is necessary. The organisation of municipalities (VNG) has contracted youthcare organisations who can provided specialised care for victims of sexual exploitation.

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After the 13 Oceans case a working group consisting of professionals working for (specialised) youthcare organisations, the public prosecution, the police, the Council for Child Protection and the organisation of municipalities discussed how shelter and care for child victims of THB for the purpose of forced criminality is best organised. Two youthcare organisations work together to provide care for child victims of THB for the purpose of forced criminality.

Paragraph 155

All underage victims have different needs. We aim to provide tailor-made support for victims in the Netherlands. Therefore, there are no standard operating procedures in place for the referral of underage victims. However, there are guidelines and tools that can help professionals in correctly referring underage victims.

The National Referral Site for Human Trafficking 'wegwijzer mensenhandel' contains a "button" on every page that says "Under-aged victims - Are you supporting an underage victim?". By clicking on this button, you are taken to the page about support for underage victims:
https://english.wegwijzermensenhandel.nl/Support_for_under-aged_victims/support-for-under-aged-victims.aspx. This contains an overview of the support available and refers people to pages with more detailed information.

Regular child protection measures and provisions, including on referral to assistance and support, apply to domestic underage victims and underage victims from EU countries. All professionals working in the field are well aware of how these measures and provisions work. The Child and Youth Act (Jeugdwet, 2015) states that within their youth policy, municipalities are responsible for the whole range of care for children, young people and families in need of support and assistance.

The ways in which municipalities ensure access to support and assistance differs. One option is that citizens can get access through the "local area teams" (multidisciplinary teams of professionals in the youth welfare, mental health and social work fields). In other municipalities the Centre for Youth and Family is responsible for handling requests from citizens for information and assistance. (The Centres for Youth and Family are centres where anyone can go with questions about raising children and growing up.) If a child needs mental youth care or specialised care, they (and their parents) can also be referred directly to these specialised care provisions by the family doctor/ GP or by a youth doctor. In emergencies, the police may also refer a child that is in urgent need of placement. Regardless of how access to these services is organised, it has to be clear to all inhabitants of a municipality, including children and their parents, where they can

turn with their questions. It is therefore important that municipalities communicate clearly and in an understandable manner how access to these services works.

To help professionals in youth care institutions with identifying victims of human trafficking who are already in care for other reasons, and giving them the proper type of care, the committee Azough has drawn up a step-by-step outline of what course of action, including referral, is available to aid workers (the "Handreiking signalering voor professionals", this can also be found on the Referral site for human trafficking: https://english.wegwijzermensenhandel.nl/Support_for_underaged_victims/Prevention/index.aspx) and a risk evaluation instrument (which can only be accessed in a protected digital environment for safety reasons).

The page about Nidos explains how referral of unaccompanied minor asylum seekers works:

<https://english.wegwijzermensenhandel.nl/Organisations/StichtingNidos.aspx>.

Finally, the Shelter page contains an overview of the main shelters available for underage victims from EU and non-EU countries:

<https://english.wegwijzermensenhandel.nl/Protection/Shelter/index.aspx>

Because we believe in tailor-made support and leaving municipalities free in how they wish to organise the support and referral of underage victims, we see no need to develop a national referral mechanism for underage victims with standard operating procedures.

Paragraph 163

The Netherlands considers this concern appropriate. Additional steps are being taken though adjustments in the Aliens Circular 2000 (B). On October 1st different changes of the Aliens Circular 2000 (B) will enter into force. One of these changes includes the clarification and harmonisation of the authorities who offer the recovery and reflection period, including the addition of the Inspectorate SZW in the Aliens Circular.

Paragraph 170

When a victim of human trafficking is not able to cooperate with the investigation and prosecution because of trauma, a psychological or physical condition or security risks (i.e. the conditions of the so-called 'schrijnend pad' ('harrowing path')), the victim will receive a temporary residence permit for a year. After this year, the person can apply for a permanent residence permit (residence permit on humanitarian grounds).

One of the changes which will be made in the Aliens Circular 2000 (B) is the addition of minority (i.e. being underage) as a possible condition of not being able to cooperate with the investigation. This will enter into force on October 1st.

Paragraph 213

The application of the non-punishment principle is an important part of the Dutch approach to fighting THB. As the GRETA report mentions, the non-punishment principle has been included in the guidelines on THB of the Public Prosecution Service (PPS) issued by the Board of Procurators-General on 21 June 2013. The guidelines state that victims should not be prosecuted or punished for offences which they have been compelled to commit as a direct consequence of their situation as a victim. Dutch prosecutors learn about the principle during their training and are proactive in establishing whether a suspect is in fact a victim of trafficking. They have discretionary power to decide whether or not to prosecute a case and can therefore decide whether to prosecute a presumed victim of THB on

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a case by case basis. Such weighing of the merits of the individual case can lead to a decision not to prosecute a victim who committed a punishable offence, thus giving effect to the non-punishment principle. In many cases, they take the decision not to prosecute. This discretionary power is referred to as the "opportunity principle" and forms an important feature of criminal procedure in the Netherlands. In addition, judges can also give effect to the non-punishment principle through a court verdict. In the event that a victim is, in fact, prosecuted for a punishable offence and the court regards him/her to be guilty, the court may as yet decide, given the circumstances, not to impose a sentence (article 9a of the Dutch Criminal Code).

There are several examples available in Dutch jurisprudence of cases where judges considered whether the non-punishment principle should apply. Clearly there can be grey area cases, for instance when a former victim gradually evolves into an accomplice of the main perpetrator and profits from the exploitation of other victims. In such cases the guidelines to the Prosecution Service give prosecutors the leeway to prosecute the former victim if they consider this to be warranted.

GRETA's report does not make clear why it believes that the Netherlands should make improvements to the way the non-punishment principle is applied. With the PPS guidelines on THB and the relevant provisions in the Criminal Code, there are sufficient instruments available to ensure the correct application of the non-punishment principle at different stages of the criminal procedure. The PPS guidelines contain rules and regulations that are generally valid and applicable, meaning that citizens can derive rights from these guidelines. The Netherlands therefore does not see the need for the adoption of a provision on the non-punishment principle.

Paragraph 245

The Ministry of Foreign Affairs provides funding for various projects in Africa, some of which include as objectives prevention of THB by addressing root causes. Also, there is support for programmes aimed at enabling African origin and transit countries to identify and prosecute perpetrators, providing assistance to victims and to cooperate regionally on addressing this transnational crime.

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