

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

GRETA

Group of Experts on Action
against Trafficking in Human Beings

GRETA(2020)01

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

First evaluation round

Adopted on 21 November 2019

Published on 11 February 2020

Secretariat of the Council of Europe Convention
on Action against Trafficking in Human Beings
(GRETA and Committee of the Parties)
Council of Europe
F-67075 Strasbourg Cedex
France

trafficking@coe.int

www.coe.int/en/web/anti-human-trafficking

Table of contents

Preamble	5
Executive summary	7
I. Introduction	9
II. National framework in the field of action against trafficking in human beings in the Czech Republic	11
1. Overview of the current situation in the area of trafficking in human beings in the Czech Republic	11
2. Overview of the legal and policy framework in the field of action against trafficking in human beings	12
a. Legal framework	12
b. National Strategy.....	13
3. Overview of the institutional framework for action against trafficking in human beings	14
a. Interdepartmental Co-ordination Group for Combating Trafficking in Human Beings.....	14
b. Ministry of the Interior	14
c. Ministry of Justice	15
d. Ministry of Labour and Social Affairs.....	15
e. Supreme Public Prosecutor's Office	15
f. Probation and Mediation Service	16
g. NGOs and international organisations.....	16
III. Implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Czech Republic	17
1. Integration of the core concepts and definitions contained in the Convention in the internal law	17
a. Human rights-based approach to action against trafficking in human beings.....	17
b. Definitions of “trafficking in human beings” and “victim of THB” in Czech law	19
<i>i. Definition of “trafficking in human beings”</i>	19
<i>ii. Definition of “victim of THB”</i>	22
c. Comprehensive approach to action against THB, co-ordination of all actors and actions, and international co-operation	22
<i>i. Comprehensive approach and co-ordination</i>	22
<i>ii. Training of relevant professionals</i>	26
<i>iii. Data collection and research</i>	28
<i>iv. International co-operation</i>	29
2. Implementation by the Czech Republic of measures aimed at preventing trafficking in human beings	31
a. Measures to raise awareness.....	31
b. Measures to discourage demand.....	33
c. Economic, social and other initiatives for groups vulnerable to THB	35
d. Border measures to prevent THB and measures to enable legal migration.....	36
e. Measures to ensure the quality, security and integrity of travel and identity documents.....	37

3. Implementation by the Czech Republic of measures to protect and promote the rights of victims of trafficking in human beings	37
a. Identification of victims of trafficking in human beings.....	37
b. Assistance to victims.....	43
c. Recovery and reflection period	47
d. Residence permits	48
e. Compensation and legal redress	49
f. Repatriation and return of victims	51
4. Implementation by the Czech Republic of measures concerning substantive criminal law, investigation, prosecution and procedural law	52
a. Substantive criminal law.....	52
b. Non-punishment of victims of trafficking in human beings.....	54
c. Investigation, prosecution and procedural law	55
d. Protection of victims and witnesses.....	58
Concluding remarks	60
Appendix I: List of GRETA's proposals	61
Appendix II: List of public bodies, intergovernmental organisations, non-governmental organisations and other civil society actors with which GRETA held consultations	67
Government's comments	69

Preamble

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

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

The Convention has a comprehensive scope of application, encompassing all forms of trafficking (whether national or transnational, linked or not linked to organised crime) and taking in all persons who are victims of trafficking (women, men or children). The forms of exploitation covered by the Convention are, at a minimum, sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude and the removal of organs.

The main added value of the Convention is its human rights perspective and focus on victim protection. The Convention recognises trafficking in human beings as a violation of human rights and an offence to the dignity and integrity of the human being; greater protection is therefore needed for all of its victims.

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

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

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

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

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

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

GRETA is composed of 15 independent and impartial experts chosen for their recognised competence in the fields of human rights, assistance and protection of victims, and action against trafficking in human beings, or because of their professional experience in the areas covered by the Convention. The task of GRETA is to evaluate the implementation of the Convention by the Parties, following a procedure divided into rounds. At the beginning of each round, GRETA defines autonomously the provisions to be monitored and determines the most appropriate means to carry out the evaluation, being guided by the Rules of procedure for evaluating implementation of the Convention adopted at GRETA's 2nd meeting (16-19 June 2009).

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

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

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

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

Executive summary

The Czech Republic has taken a number of important steps to combat trafficking in human beings. The national legal framework in the field of anti-trafficking action has evolved over the years, in the light of the country's international commitments. The Interdepartmental Co-ordination Group for Combating Trafficking in Human Beings was set up in 2008, bringing together relevant governmental and non-governmental stakeholders. In 2016 the Czech Government adopted the National Strategy for Combating Trafficking in Human Beings for the period 2016-2019, the fifth strategic document in this area. The measures included in it address all principal areas relevant to action against human trafficking, and its implementation is periodically evaluated by the Ministry of the Interior.

In the early 2000s, the Czech Republic was primarily a country of origin, especially for women and girls trafficked for the purpose of sexual exploitation, but in recent years, there has been an influx of foreign workers to the Czech Republic. The number of victims of trafficking for labour exploitation identified by the police remains low and there have been a total of eight convictions for this form of trafficking since 2010. The current National Strategy includes several tasks related to combating trafficking for labour exploitation.

Children accounted for more than half of the victims identified by the police in the period 2012-2015, which is why the current National Strategy treats combating child trafficking as a priority. The statistics available for 2016-2018 also indicate that nearly half of the victims identified by the police were children.

A number of preventive and informative activities on human trafficking are carried out by different stakeholders, in particular NGOs. Social workers of the NGO La Strada Czech Republic carry out outreach work at places frequented by potentially trafficked and exploited persons and disseminate information materials. GRETA considers that the Czech authorities should adopt and strengthen legislative, administrative, educational, social, cultural or other measures to discourage demand for the services of trafficked persons, for all forms of exploitation, in partnership with civil society, trade unions and the media.

There are reports that human trafficking affects Roma, notably women and girls for the purpose of sexual exploitation and sham marriage, but also men and boys for the purpose of labour exploitation, as well as welfare benefits and credit fraud. As part of the Roma Integration Strategy, the Czech authorities are taking measures which can prevent the trafficking of Roma. There are also several programmes which help stimulate economic performance in economically deprived regions and build social housing. GRETA considers that the Czech authorities should continue strengthening prevention of human trafficking through targeted social and economic empowerment measures for vulnerable groups and persons, in particular the Roma community and migrant workers.

There is no procedure for the identification of victims of human trafficking which is independent of the criminal investigation. GRETA urges the Czech authorities to disconnect the identification of victims of human trafficking from the initiation of criminal proceedings and to put in place a formalised victim identification procedure which defines the roles and responsibilities of all relevant stakeholders and promotes a multi-agency approach by involving specialised NGOs, labour inspectors, social workers, child protection specialists and health-care staff. GRETA also asks the authorities to pay increased attention to the proactive detection of victims of trafficking amongst asylum seekers and persons placed in administrative detention pending removal.

The Ministry of the Interior funds the Programme for Support and Protection of Victims of Trafficking in Human Beings, which is implemented by the NGO La Strada Czech Republic through a public procurement agreement. Shelter accommodation is available for both women and men who are presumed to be victims of trafficking. GRETA asks the Czech authorities to provide specialised assistance for child victims of trafficking, taking into account their specific circumstances and the best interests of the child, and to ensure the continuity of funding for services delivered by specialised NGOs.

While Czech law provides for a recovery and reflection period of one month, GRETA is concerned that only presumed victims who enter the Programme for Support and Protection of Victims of Trafficking effectively benefit from a reflection period (extended to 60 days when a person participates in the Programme). GRETA urges the Czech authorities to ensure that the recovery and reflection period is applied to all presumed foreign victims of trafficking, including those to whom the Dublin Regulation is applicable.

Czech law provides for the possibility of granting victims of trafficking a residence permit when they co-operate in the investigation/criminal proceedings. GRETA considers that the authorities should make further efforts to ensure that victims of trafficking can fully benefit in practice from the right to obtain a renewable residence permit, without prejudice to the right to seek and enjoy asylum.

There have been some successful compensation claims for non-material damages in cases of trafficking for sexual exploitation, but none in cases of trafficking for labour exploitation. Further, no victims of trafficking have received financial assistance from the state under the Victims of Crime Act. GRETA urges the Czech authorities to adopt measures to facilitate and guarantee access to compensation for victims of trafficking, including by reviewing the criminal and civil procedures regarding compensation and ensuring that all persons trafficked in, to or from the Czech Republic, regardless of nationality and residential status, are eligible for financial assistance from the state.

Czech legislation does not contain a specific provision replicating Article 26 of the Convention and no guidance is available for law enforcement officials, prosecutors and judges in this respect. GRETA urges the Czech authorities to take measures to ensure compliance with the provision on the non-punishment of victims of trafficking for their involvement in unlawful activities, to the extent that they were compelled to do so.

Further, GRETA considers that the Czech authorities should provide law enforcement authorities with guidance and tools to detect and investigate trafficking cases for different forms of exploitation, provide training to judges, and systematically carry out financial investigations in order to effectively locate, seize and confiscate criminal assets and enable compensation of the victims. Finally, GRETA considers that the Czech authorities should make full use of the available measures to protect victims of trafficking, including children, and to prevent their intimidation during the investigation and during and after the court proceedings.

I. Introduction

1. The Czech Republic deposited the instrument of ratification of the Council of Europe Convention on Action against Trafficking in Human Beings ("the Convention") on 29 March 2017. The Convention entered into force for the Czech Republic on 1 July 2017.¹

2. As established in Article 36(1) of the Convention, the Group of Experts on Action against Trafficking in Human Beings ("GRETA") monitors the implementation of the Convention by the Parties. GRETA does so in conformity with the procedure laid down in Article 38 of the Convention and the Rules on the evaluation procedure of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Parties.

3. In accordance with Article 38 of the Convention, GRETA proceeded with the examination of the measures taken by the Czech Republic to implement the provisions set out in the Convention. The "Questionnaire for the evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Parties - first evaluation round" was sent to the Czech Republic on 12 July 2018. The deadline for replying to the questionnaire was 30 November 2018, the date on which the Czech Republic submitted its reply.

4. In preparation of the present report, GRETA used the reply to the questionnaire by the Czech Republic and other information collected by GRETA. In addition, an evaluation visit to the Czech Republic took place from 4 to 8 March 2019, carried out by the following delegation:

- Mr Ryszard Piotrowicz, President of GRETA *ad interim*;
- Ms Helga Gayer, member of GRETA;
- Ms Petya Nestorova, Executive Secretary of the Convention on Action against Trafficking in Human Beings.

5. During the visit, the GRETA delegation met the First Deputy Minister of the Interior, Mr Jiří Nováček, the Deputy Minister of Justice, Mr Michal Franěk, as well as officials from the Ministry of the Interior, the Ministry of Justice, the Ministry of Labour and Social Affairs, the Ministry of Foreign Affairs, the Ministry of Education, Youth and Sport, the Ministry of Health, and the Ministry of Regional Development. Meetings were also held with prosecutors and judges. Further, the GRETA delegation met the Public Defender of Rights, Ms Anna Šabatová.

6. The GRETA delegation held separate meetings with representatives of non-governmental organisations (NGOs) and lawyers. Discussions were also held with officials from the International Organization for Migration (IOM) and the United Nations High Commissioner for Refugees (UNHCR). GRETA is grateful for the information provided by them.

¹ The Convention as such entered into force on 1 February 2008, following its 10th ratification.

7. In the context of the evaluation visit, the GRETA delegation visited a shelter for victims of trafficking run by the NGO Diakonie in Prague and a shelter for women and children victims of violence and human trafficking, run under the Project Magdala of Caritas of the Archdiocese of Prague. Further, the GRETA delegation visited the Centre "PRO" in Blansko, which runs a shelter for victims of violence and carries out outreach work.

8. GRETA is grateful for the valuable assistance provided before, during and after the visit by the contact person appointed by the Czech authorities to liaise with GRETA, Ms Jiřina Jůzlová, from the International Co-operation Department of the Ministry of Justice.

9. The draft version of the present report was adopted by GRETA at its 35th meeting (8-12 July 2019) and was submitted to the Czech authorities for comments on 22 July 2019. The authorities' comments were received on 21 October 2019 and were taken into account by GRETA when adopting the final report at its 36th meeting (18-22 November 2019). The report covers the situation up to 22 November 2019; developments since that date are not taken into account in the following analysis and conclusions. The conclusions summarise the progress made, the issues which require immediate action and the other areas where further action is needed (see page 60).

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

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

10. The Czech Republic is a country of destination, transit and origin of victims of trafficking in human beings (THB). According to statistical information collected by the Ministry of the Interior, the police identified, as part of criminal proceedings, 38 victims of human trafficking in 2016 (29 women, 8 girls and 1 boy), 14 in 2017 (10 girls and 4 men) and 11 in 2018 (11 girls).² This suggests a decreasing trend in the number of victims of THB identified in criminal proceedings (e.g. 76 in 2010, 67 in 2014). The available data is not disaggregated by form of exploitation and nationality of the victims. However, it is indicated in the annual Status Reports on THB in the Czech Republic, drawn up by the Ministry of the Interior, that the main countries of origin of the victims are Romania, Bulgaria, Ukraine and the Slovak Republic. The number of Czech citizens trafficked abroad has decreased in recent years, with the United Kingdom, Ireland and Germany being the main countries of destination. Czech citizens are also trafficked within the Czech Republic, but no statistics are available on identified victims of internal trafficking.

11. Separate statistics are available concerning the number of presumed victims of THB, identified by NGOs or the police, who entered the Programme of Support and Protection of Victims of Trafficking in Human Beings, but did not necessarily take part in criminal proceedings: 14 in 2016 (9 for labour and 5 for sexual exploitation), 24 in 2017 (17 for labour and 7 for sexual exploitation) and 17 in 2018 (including 23 foreign nationals). These presumed victims included persons from the Philippines, Vietnam, the Republic of Moldova, Nigeria, Ukraine, the Slovak Republic, Bulgaria, Romania and the Czech Republic (see also paragraph 174).

12. According to the 2016 and 2017 Status Reports on Trafficking in Human Beings in the Czech Republic, trafficking for the purpose of sexual exploitation continues to be the most common form of trafficking identified, with a recent increase in the number of victims from Asia and Africa. At the same time, it is acknowledged by the authorities that the relatively low number of identified victims of THB for the purpose of labour exploitation is only "the tip of the iceberg".³ Despite various abuses detected by labour inspectors and the police (such as fraudulent agency employment or illegal posting of workers by employers headquartered in other EU countries), in the absence of criminal proceedings for THB for labour exploitation, very few victims have been formally identified. In recent years, there has been an increase in the number of homeless and socially disadvantaged persons recruited to work in the UK (in car washes, poultry farms, fruit and vegetable sorting machines) or trafficked for the purpose of obtaining social benefits and credit fraud. Another trend is that of girls and young women belonging to socially excluded communities who are lured abroad, mostly to the United Kingdom and Ireland, under the pretext of marriage with men from third countries, in particular Bangladesh, Afghanistan and Pakistan.⁴

² This statistical data comes mostly from the Police Statistical Crime Recording System and is quoted in the annual Status Reports on THB in the Czech Republic, which are available on the website of the Ministry of the Interior: <https://www.mvcr.cz/clanek/obchod-s-lidmi-dokumenty-924305.aspx>

³ 2016 Status Report on THB in the Czech Republic, p. 7.

⁴ 2017 Status Report on THB in the Czech Republic, p. 5.

13. Children accounted for nearly half of the victims identified in 2016-2018 (and more than half of those identified in 2012-2015). According to police records, the majority of child trafficking cases related to exploitation through prostitution or the production of child sexual abuse material, with a small proportion being trafficked for the purposes of labour exploitation, forced begging and theft. According to reports, unaccompanied foreign children (e.g. from Afghanistan, Syria, Ukraine) making their way towards Western Europe and transiting the Czech Republic are particularly at risk of trafficking for sexual exploitation, but there are also Czech, Slovak, Romanian and Bulgarian children trafficked for sexual exploitation in the Czech Republic.⁵ In 2018, three unaccompanied children placed in the Facility for Foreign Children (under the Ministry of Education) were identified as potentially being victims of trafficking (see paragraph 159).

14. GRETA notes that the above figures of identified victims of THB probably do not reflect the real scale of the phenomenon of THB in the Czech Republic, due to difficulties in the detection and identification of victims of trafficking and problems of data collection (see paragraphs 93-94).

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

a. Legal framework

15. At the international level, in addition to the Council of Europe Convention on Action against Trafficking in Human Beings, the Czech Republic is party to the United Nations Convention against Transnational Organized Crime (ratified in September 2013) and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children ("Palermo Protocol", ratified in December 2014). The Czech Republic is also Party to the UN Convention on the Rights of the Child and its Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (ratified, respectively, in 1993 and 2013), the Convention on the Elimination of All Forms of Discrimination against Women (ratified in 1993), as well as to relevant conventions elaborated under the auspices of the International Labour Organization (ILO).⁶ Further, the Czech Republic is Party to a number of Council of Europe conventions in the criminal field which are relevant to action against THB.⁷

16. As a member of the European Union (EU), the Czech Republic is bound by Directive 2011/36/EU of the European Parliament and of the Council of the EU of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims;⁸ Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who co-operate with the competent authorities; Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims; and Directive 2012/29/EU of the European Parliament and the Council of the EU of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Framework Decision 2001/220/JHA of 15 March 2001 of the Council of the EU on the standing of victims in criminal proceedings.

⁵ Defence for Children International Czech Section and ECPAT International, *Sexual Exploitation of Children in the Czech Republic*, report supplementing the information provided by Czech Republic in its first report on the implementation of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution, and child pornography, available at: <http://www.ecpat.org/wp-content/uploads/2018/07/Report-on-the-Optional-Protocol-on-the-Sexual-Exploitation-of-Children-for-the-Committee-on-the-Rights-of-the-Child-Czech-Republic-English-2018.pdf>

⁶ In particular, the Convention concerning Forced or Compulsory Labour (No. 29), ratified in 1993, and its 2014 Protocol, ratified in 2016; the Convention concerning the Abolition of Forced Labour (No. 105), ratified in 1996, and the Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (No. 182), ratified in 2001.

⁷ The European Convention on Mutual Assistance in Criminal Matters and its two Additional Protocols, the European Convention on the Transfer of Proceedings in Criminal Matters, the European Convention on Extradition and its two Additional Protocols, the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime.

⁸ Replacing Council Framework Decision 2002/629/JHA of 19 July 2002 on combating trafficking inhuman beings.

17. The Czech domestic legal framework related to combating THB has evolved over the years. In 2004, Section 233 of the then Criminal Code (CC) was amended to criminalise trafficking in human beings for different forms of exploitation, both transnationally and within the country (prior to that, only trafficking for sexual exploitation was criminalised). In 2009, further amendments were made when the offence of THB was included in Section 168 of the new CC (Act no. 40/2009 Coll.). The list of forms of exploitation was expanded by adding the production of pornographic material, procurement of human cells, tissues and organs, and military service, as was the list of means. Further, it was specified that planning the offence of THB is itself an offence.

18. The measures of assistance and support to victims of trafficking in human beings are contained in Act no. 45/2013 Coll. (on Victims of Crime), pursuant to which victims of trafficking in human beings are considered particularly vulnerable and, as such, are entitled to free legal aid and to specific measures to protect them from secondary victimisation during criminal proceedings. Additional measures concerning assistance and support to victims can also be found in Act no. 108/2006 Coll. (on Social Services) and Act no. 359/1999 Coll. (on Child Care).

19. The prosecution of traffickers is regulated by Act No. 141/1961 Coll. (the Criminal Procedure Code, CPC) and, in the case of juveniles, Act no. 218/2003 Coll. (concerning Youth Responsibility for Unlawful Acts and Judiciary in Suits of Youth and Amendments to Some Acts). Of relevance is also Act no. 418/2011 Coll. (on Criminal Liability of Legal Persons and Legal Proceedings against Them).

b. National Strategy

20. The first National Strategy for Combating THB in the Czech Republic, which was adopted in 2003, focused on sexual exploitation. The first comprehensive anti-trafficking strategy that considered all aspects of THB was drawn up for the period of 2005-2007.

21. In 2016 the Czech Government adopted the National Strategy for Combating Trafficking in Human Beings for the period 2016-2019, the fifth strategic document in this area, which provides a co-ordination frame for the state bodies concerning prevention as well as repression of THB. The goal of the Strategy is to reduce the scope for committing this crime through a system of interrelated measures, by combining existing and new tools reflecting current developments and issues identified at both national and international level. The Strategy identifies as priority areas combating human trafficking for the purpose of labour exploitation and punishing offenders, as well as combating child trafficking. The focus is placed in particular on the development of mechanisms for the identification of victims and the prosecution of offenders. It is stated that the fight against THB is one of the priorities of combating organised crime. The Strategy also highlights as cross-cutting priorities a gender-specific approach to victims, a particularly sensitive approach to victims subjected to particularly serious coercion, as well as a specific approach to victims in a more vulnerable situation, such as those from socially excluded localities and migrants.

22. Several key tools have been identified for achieving the priorities set out in the current national Strategy, namely:

- 1) improving the identification of victims of trafficking;
- 2) co-ordination of the fight against THB;
- 3) increasing awareness of THB, its forms and the assistance provided to victims;
- 4) strengthening multidisciplinary and regional co-operation.

23. The individual goals and measures in the Strategy were prepared in co-operation with stakeholders from both governmental and non-governmental sectors. An evaluation of the previous Strategy was carried out by the Ministry of the Interior to identify possible weaknesses (included in annex 2 of the Strategy). The body responsible for the overall implementation of the Strategy is the Ministry of the Interior, but each one of the 13 tasks in the Strategy has different public bodies assigned responsibility, with an indication of the start and completion dates, method of financing (mostly budget of the Ministry of the Interior, occasionally budget of the Ministry of Labour and Social Affairs), and performance indicators.

24. GRETA was informed that the next National Strategy for Combating THB would be prepared in the course of 2019 and should be ready by March 2020. The new priorities which were being proposed included the development of uniform indicators for the identification of victims of THB, improving data collection, measures to prevent and combat child trafficking, identification of victims of THB among asylum seekers, as well as raising awareness of THB among the Aliens Police Service.

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

a. Interdepartmental Co-ordination Group for Combating Trafficking in Human Beings

25. The Interdepartmental Co-ordination Group for Combating Trafficking in Human Beings was established by Governmental Resolution No. 1006 of 20 August 2008.

26. The Chair of this Group is the Minister of the Interior, who is the National Co-ordinator of action against trafficking in human beings. The Deputy Ministry of the Interior acts as executive Vice-Chair of the Co-ordination Group. Other members include the Head of the Crime Prevention Department of the Ministry of the Interior (fulfilling the role of Secretary of the Group and National Rapporteur) and representatives of other competent Ministries and agencies (Ministry of Labour and Social Affairs, Ministry of Health, Ministry of Justice, Ministry of Regional Development, Ministry of Foreign Affairs, Ministry of Education, Youth and Sports, Police Department for Combating Organised Crime, Supreme State Prosecutor's Office, Government Council for Human Rights, Government Council for Equal Opportunities of Women and Men, Government Council of National Minorities). Currently, five NGOs have full membership in the Co-ordination Group, as does IOM.

27. The Co-ordination Group meets at least twice a year⁹ and is responsible for co-ordinating activities in the field of combating trafficking in human beings. It also serves as a platform for exchanging information on the current situation and ongoing activities, as well as for submitting proposals and recommendations for taking particular measures at the inter-ministerial level. Its members collect data and prepare documents for the annual Status Report on THB in the Czech Republic, which is drawn up and submitted by the Crime Prevention Department (in its role of National Rapporteur) to the Minister of the Interior, setting out priorities and tasks for the upcoming period.¹⁰

b. Ministry of the Interior

28. As stated previously, the Ministry of the Interior is responsible for the implementation of the Strategy for Combating Trafficking in Human Beings and the co-ordination of the fight against trafficking in human beings at national level. The Minister of the Interior chairs the Interdepartmental Co-ordination Group, the Vice-Minister of the Interior is the Executive Vice-Chair of the Group, and the Head of the Crime Prevention Department of the Ministry of the Interior fulfils the role of its Secretary as well as National Rapporteur (see paragraph 65).

⁹ At the time of GRETA's visit in March 2019, the last meeting had taken place in November 2018.

¹⁰ The 2017 Status Report on THB is available at: <https://www.mvcr.cz/clanek/obchod-s-lidmi-dokumenty-924305.aspx>

29. Further, the Ministry of the Interior finances the Programme for Support and Protection of Victims of Trafficking in Human Beings, to the amount to CZK 1.6 million (approximately 66,000 euros) per year, which is being implemented by NGOs (see paragraphs 166, 170-175).

30. The National Centre for Combating Organised Crime is responsible for the investigation of all cases of THB and has police officers assigned to deal with THB and migrant smuggling in its regional offices as well as at its headquarters (see paragraph 230). Within the general crimes departments of the regional police directorates there are also police officers trained and specialised in dealing with THB cases.

c. Ministry of Justice

31. The Ministry of Justice is responsible for legislation in the area of combating THB and grants accreditation to institutions providing assistance for victims.¹¹ It also provides grants to some 18 NGOs for different projects under the grant title "Development of Services for Crime Victims". La Strada is the only NGO directly focused on THB victims which has been receiving annual grants from the Ministry of Justice since 2014. Furthermore, EU funds (e.g. the European Social Fund) are used by the Ministry of Justice, for example for a project to strengthen assistance to victims (approximately 400,000 EUR) and for the project "Why me?", which focuses on victim support (2.3 million EUR).¹²

d. Ministry of Labour and Social Affairs

32. The Ministry of Labour and Social Affairs offers grants for agencies focusing on providing social services (333 million euros are allocated annually for social services).

33. Furthermore, the State Labour Inspection Office under the Ministry of Labour and Social Affairs monitors employment conditions and helps to detect possible cases of THB (see paragraph 150).

34. The Ministry's Child Protection Department plays an important role in the protection of child victims. There are offices for legal and social protection of children in all regions of the country, which employ officers who undergo compulsory training focusing on different aspects of law, including the issue of THB.

e. Supreme Public Prosecutor's Office

35. The Supreme Public Prosecutor's Office has a designated national correspondent for combating human trafficking, exploitation of women and children, illegal migration and employment. The work of this correspondent comprises collecting relevant information from legislation and case law, facilitating exchange of experiences amongst public prosecutors specialising in the field of THB, and participation in seminars dedicated to this issue. Furthermore, there are obligatorily appointed specialised public prosecutors for THB cases at the Regional, High and Supreme Public Prosecutor's Offices.¹³

¹¹ The register of accredited service providers has four sections that contain information on all types of victim assistance providers (providers of social services; accredited providers of legal information or restorative programmes; lawyers; centres of the Probation and Mediation Service). Available at: <https://otc.justice.cz/verejne/seznam.jsf>

¹² The project "Why me?" was co-funded from the Operational Programme Human Resources and Employment during the period 2007-2013. It was implemented by the Probation and Mediation Service from 1 June 2012 until 30 November 2015. The purpose of the project was to support victims of crimes in handling the serious social situation of the crime and to make it easier for victims to return back to daily life. Currently, the Probation and Mediation Service is implementing a follow-up project "Why me? II" for the period 2014-2020. Both projects are relevant for victims of all crimes, including THB.

¹³ The Czech Republic has a four-tier court system comprised of District Courts (86), Regional Courts (8), High Courts (2), the Supreme Court and the Supreme Administrative Court. The Public Prosecutor's Offices follow the same structure under the umbrella of the Supreme Public Prosecutor's Office.

f. Probation and Mediation Service

36. The Probation and Mediation Service (PMS) is a state agency providing victims of any offences with legal information as well as psychological support, and offers restorative programmes, such as mediation. There are 74 PMS centres across the country which provide their services free of charge.

g. NGOs and international organisations

37. NGOs have played a key role in the field of action against THB in the Czech Republic. La Strada Czech Republic has been active in combating THB since 1995. It is a founding organisation of the network La Strada International, together with member organisations in another eight European countries. It is also part of the Consortium of Migrant Assisting Organisations and the Association of Sheltered Houses in the Czech Republic. La Strada Czech Republic is involved in awareness raising, training, advocacy, provision of crisis accommodation and sheltered housing, as well as the provision of counselling, medical, social and legal services to adult victims of trafficking, regardless of nationality, gender, residence status or form of exploitation. Since 2015, it has been the main implementor of the Programme for Support and Protection of Victims of Trafficking in Human Beings, which is funded by the Ministry of the Interior (see paragraphs 166 and 170-175). La Strada Czech Republic also operates an SOS and information telephone helpline for victims of human trafficking and exploitation.

38. In addition to La Strada, several other NGOs in the Czech Republic provide victim support services.¹⁴ The Caritas of the Archdiocese of Prague addresses trafficking in human beings through two programmes. The Project Magdala¹⁵ focuses on assisting female and child victims of domestic violence and human trafficking. The services provided within the scope of the Project Magdala include support in finding safe accommodation, social counselling and support, psychological and mental health care, legal assistance and assistance with job searching. The second programme, provided by the Migration Centre of Caritas, offers counselling and support to migrants and refugees.

39. Diakonie of the Evangelical Church of Czech Brethren has been involved since 2008 in the provision of services to trafficked and exploited persons. In 2009 it started the project "No to Violence" in order to provide assistance to trafficked persons and potential victims of THB. Services to trafficked persons, including shelter accommodation, medical assistance, legal aid and assistance in criminal proceedings, are provided in Prague and Pilsen. The activities of Diakonie, which focus in particular on assisting victims of THB for the purpose of labour exploitation, include outreach work and advocacy.

40. The IOM Office in the Czech Republic is currently involved in the provision of training on THB to consular officers prior to them being posted abroad, as well as other capacity building activities (see paragraphs 83-84). Further, it participates in the Programme of Assisted Voluntary Return¹⁶ which can be used by victims of human trafficking.

41. The UNHCR Office in Prague supports the construction of a comprehensive, sustainable and independent asylum system, through its own programmes in the field of legal advice and awareness-raising activities, as well as through supporting the programmes of NGOs (such as the Organisation for Aid to Refugees, OPU, which provides legal assistance to asylum seekers and visits administrative detention facilities). UNHCR monitors access to the territory and asylum procedure at the Vaclav Havel International Airport in Prague, the main Schengen entry-point to the Czech Republic, to ensure that entry systems include effective mechanisms to identify persons in need of international protection, including potential victims of human trafficking. UNHCR also assesses the quality of first-instance asylum decisions and of selected decisions of regional courts and the Supreme Administrative Court and pays special attention to cases involving gender-based persecution.

¹⁴ <https://otc.justice.cz/verejne/seznam.jsf>.

¹⁵ <https://praha.charita.cz/en/social-services/project-magdala/>

¹⁶ <https://www.iom.cz/aktivity/voluntary-returns-reintegration-and-resettlement>

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

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

a. Human rights-based approach to action against trafficking in human beings

42. Article 1(1)(b) of the Convention establishes as one of its purposes the protection of the human rights of the victims of trafficking. Further, Article 5(3) includes the obligation for Parties to promote a human rights-based approach in the development, implementation and assessment of the policies and programmes to prevent THB. The Explanatory Report on the Convention states that the main added value of the Convention is its human rights perspective and focus on victim protection. In the same vein, the United Nations Recommended Principles and Guidelines on Human Rights and Human Trafficking emphasise that “the human rights of trafficked persons shall be at the centre of all efforts to prevent and combat trafficking and to protect, assist and provide redress to victims”.¹⁷

43. THB constitutes an offence to the dignity and fundamental freedoms of the human being and thus a grave violation of human rights. GRETA emphasises the obligations of States to respect, fulfil and protect human rights, including by ensuring compliance by non-State actors, in accordance with the duty of due diligence. A State that fails to fulfil these obligations may, for instance, be held accountable for violations of the European Convention on Human Rights and Fundamental Freedoms (the ECHR). This has been confirmed by the European Court of Human Rights in its judgment in the case of *Rantsev v. Cyprus and Russia*, where the Court concluded that THB within the meaning of Article 3(a) of the Palermo Protocol and Article 4(a) of the Anti-Trafficking Convention, falls within the scope of Article 4 of the European Convention on Human Rights¹⁸ (which prohibits slavery, servitude and forced or compulsory labour). The Court further concluded that Article 4 entails a positive obligation to protect victims or potential victims, as well as a procedural obligation to investigate trafficking.¹⁹

44. The Convention on Action against Trafficking in Human Beings requires States to set up a comprehensive framework for the prevention of THB, the protection of the rights of trafficked persons, and the effective investigation and prosecution of traffickers. Such protection includes steps to ensure that all victims of different forms human trafficking are properly identified. It also involves measures to empower trafficked persons by enhancing their rights to adequate protection, assistance and redress, including recovery and rehabilitation, in a participatory and non-discriminatory framework. Further, measures to prevent THB should be taken in the field of socio-economic, labour and migration policies.

45. GRETA wishes to stress the need for States to also address THB as a form of violence against women and to take account of gender-specific types of exploitation, as well as the particular situation of child victims of trafficking, in line with the relevant international legal instruments.²⁰

¹⁷ Addendum to the report of the United Nations High Commissioner for Human Rights (E/2002/68/Add. 1), <http://www.ohchr.org/Documents/Publications/Traffickingen.pdf>

¹⁸ *Rantsev v. Cyprus and Russia*, application No. 25965/04, judgment of 7 January 2010, ECHR 2010, paragraph 282.

¹⁹ See *Siliadin v. France*, application No. 73316/01, judgment of 26 July 2005, ECHR 2005 VII; *C.N. and V. v. France*, application No. 67724/09, judgment of 11 October 2012, and *C.N. v. United Kingdom*, application No. 4239/08, judgment of 13 November 2012; *L.E. v. Greece*, application No. 71545/12, judgment of 21 January 2016; *Chowdury and Others v. Greece*, application No. 21884/15, judgement of 30 March 2017.

²⁰ Such as the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, the United Nations Convention on the Rights of the Child and the Optional Protocol thereto on the sale of children, child prostitution and child pornography, and the United Nations Convention on the Elimination of All Forms of Discrimination against Women.

46. In their reply to GRETA's questionnaire, the Czech authorities have referred to the Charter of Fundamental Rights and Freedoms of the Czech Republic, and in particular its Article 9, which prohibits forced labour. Furthermore, the authorities have noted that personal freedom and freedom of decisions are rights which are guaranteed by the Charter of Fundamental Rights and Freedoms and that, as such, they are under the protection of the Constitutional Court (the right to bring an action against a decision or another interference of the state agencies or institutions). Reference should be made to the Constitutional Court judgment of 16 December 2015, file no. II.ÚS 3626/13, concerning the so-called "Tree Workers Case", which involved hundreds of migrant workers (between 1,500 and 2,000), mostly from Vietnam, Romania and the Slovak Republic, who were brought to the Czech Republic through false promises and exploited in the Czech forestry industry in the period 2009-2010.²¹ The workers were organised into small groups in secluded forest areas, planting and/or cutting down trees, and were constantly moved to avoid attracting any attention. Instead of work contracts the companies for which they worked made them sign "training contracts" in order to avoid control from the labour office and the foreigners' police. The workers performed hard physical work up to 12 to 14 hours a day, six or seven days a week; they received no pay and were threatened and intimidated when complaining. Some of the workers eventually filed criminal complaints with the Supreme Public Prosecutor's Office. The criminal case was split into two: the investigation of the actions committed against the Slovak and Romanian workers was entrusted to the District Police Headquarters Prague I, whereas the actions committed against Vietnamese workers were investigated by District Police Headquarters Prague IV. After about a year of investigation, both criminal cases were suspended. Following a constitutional complaint²² by 14 of the migrant workers (from the Slovak Republic and Romania) against the decisions of the police to suspend the investigation into suspected human trafficking, the Constitutional Court found that the police had acted unlawfully, and annulled the decisions to end the criminal proceedings (see also paragraph 237). In its reasoning, the Court considered it "intolerable for the investigation of the suspicion that a group of entrepreneurs systematically violated the fundamental rights of a number of foreign workers in the Czech Republic for a lengthy period of time to end in suspension of the matter with only very general justification, without the appropriate bodies having considered the substance of the suspicion even fleetingly".²³ The Constitutional Court relied *mutatis mutandis* on case-law of the European Court of Human Rights as regards the state's positive obligations to conduct an effective investigation in cases of serious crimes against liberty and human dignity.

47. The authorities have also stated that the CC reflects the human rights stipulated in the Charter of Fundamental Rights and Freedoms and protects these rights. The CC divides criminal offences into different categories and THB is considered as a criminal offence against freedom. The interest protected by law is therefore personal freedom of individuals – their capability to decide in virtually all spheres of life. For this reason, trafficking in human beings is a criminal offence which stems from a violation of basic human rights. THB victims, including presumed victims, are considered by law as particularly vulnerable. As such, they enjoy all victim support services, including free legal, and may benefit from special measures in order to protect themselves from secondary victimisation during criminal proceedings (see paragraphs 242-247).

48. In accordance with Article 10 of the Constitution of the Czech Republic, the Council of Europe Anti-Trafficking Convention is part of the Czech legal order. According to the Czech authorities, the Convention cannot be directly applied by Czech courts; nevertheless, its provisions have to be taken into account in order to construe national law properly.

²¹ <https://www.antislavery.org/satisfaction-workers-success-activists-shame-czech-police/>

²² The constitutional complaint was submitted on 2 December 2013 against the decision of the District Police Headquarters Prague I No. KRPA-43249/TC-2013-001193-DS and against the decision of the District Prosecution for Prague I No. 0 ZN 1423/2013-99 which confirmed the decision of the police. A separate constitutional complaint was submitted by 19 Vietnamese workers in the same case on 22 October 2014 against the decision of the District Police Headquarters Prague IV and the decision of the District Prosecution of Prague IV which upheld the police decision.

²³ Constitutional Court judgment of 16 December 2015, file no. II.ÚS 3626/13, paragraph 22.

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

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

i. Definition of "trafficking in human beings"

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

51. In the Czech Republic, trafficking in human beings is criminalised under Section 168 of the CC, which reads as follows:

"(1) Whoever induces, recruits, hires, lures, entices, transports, hides, detains, receives or hands over a child to be used

a) by another person for sexual intercourse or other forms of sexual abuse or harassment, or for production of pornographic materials,

b) by another person for extraction of tissue, cell, or organs from his/her body,

c) for service in the armed forces,

d) for slavery or servitude, or

e) for forced labour or other forms of exploitation, or

who profits from such conduct,

will be sentenced to imprisonment for two to ten years.

(2) The same penalty will be imposed on whoever induces, recruits, hires, lures, entices, transports, hides, detains, receives or hands over a person other than that referred to in sub-section (1), by using violence, threat of violence or other grievous harm or deception, or by abusing that person's mistake, distress or dependence, to be used

a) by another person for sexual intercourse or other forms of sexual abuse or harassment, or for the production of pornographic materials,

b) by another person for extraction of tissue, cell, or organs from his/her body,

c) for service in the armed forces,

d) for slavery or servitude, or

e) for forced labour or other forms of exploitation, or

who profits from such conduct.

(3) An offender will be sentenced to imprisonment for five to twelve years or to confiscation of assets if he/she

a) commits the act referred to in sub-section (1) or (2) as a member of an organised group,

b) exposes through such an act another person to a risk of grievous bodily harm or death,

c) commits such an act with the intention to gain a substantial profit for himself/herself or for another person, or

d) commits such an act with the intention to use another person for prostitution.

(4) An offender will be sentenced to imprisonment for eight to fifteen years or to confiscation of property if he/she

a) causes grievous bodily harm by the act referred to in sub-section (1) or (2),

b) commits such an act with the intention to gain significant profit for himself/herself or for another person, or

c) commits such an act in connection with an organised group operating in several states.

(5) An offender will be sentenced to imprisonment for ten to eighteen years or to confiscation of property, if he/she causes death by the act referred to in sub-section (1) or (2).

(6) Preparation of acts described above constitutes an offence."²⁴

52. The Czech legal definition of THB includes the three constitutive elements of THB (action, means and purpose of exploitation) as regards adults, in line with Article 4(a) of the Convention. As regards children, it contains only two of the above elements, i.e. the action and the purpose of exploitation, irrespective of the means used.

53. The list of actions in paragraphs 1 and 2 of Article 168 of the CC is longer than that in the definition of THB in the Convention and endeavours to encompass a whole sequence of actions leading to the exploitation of a victims; taken together, these actions appear to cover the concepts in a manner consistent with the Convention.

54. Not all the means contained in the definition of THB under the Convention are specifically mentioned in Article 168 of the CC, in particular "abuse of power", "abuse of a position of vulnerability" and "giving or receiving of payments or benefits to achieve the consent of a person having control over another person". The Czech authorities have stated that the concept of "abusing a person's mistake, distress or dependence" in Article 168 of the CC covers a range of situations which in practice correspond to "abuse of power" and "abuse of a position of vulnerability". The Explanatory Memorandum to the CC does not provide information on the situations involving "abuse of distress or dependence". However, the Security Police Department of the Ministry of the Interior has issued specialised opinions which interpret the term "distress" (*tíseň* in Czech) as being "an economic difficulty, such as the maturity of a debt, the non-payment of which can seriously endanger the victim's social status or financial situation" or "a difficult personal or family situation... such as residing in the Czech Republic illegally. The employer then takes advantage of the foreign national's fear of extradition and threatens to report him/her to the Immigration Police if he/she demands wages".²⁵ The Czech authorities have also provided examples of case-law on "abuse of a position of dependence", according to which "dependence is a state in which the person cannot freely decide, because he/she is in a certain way reliant on the perpetrator. It does not have to be dependence resulting from a legal relationship; factual dependence suffices".²⁶

55. As regards "giving or receiving of payments or benefits to achieve the consent of a person having control over another person", the authorities have stated that it is covered indirectly by other concepts in Article 168 of the CC.²⁷

²⁴ Unofficial translation.

²⁵ Petra Kutalkova, La Strada Czech Republic, *The Narrow Gateway to Human Rights, Identification of Trafficked Persons in the Czech Republic*, Prague 2010, p. 34.

²⁶ Supreme Court of the Czech Republic, 6 Tdo 591/2016.

²⁷ The Czech authorities have referred to the following national case-law as being of relevance in this respect: Supreme Court decision of 29 October 2015, No. 3 Tdo 1022/2015; Supreme Court decision of 17 July 2019, No. 7 Tdo 864/2019.

56. The list of forms of exploitation in Article 168 of the CC refers explicitly to all the forms of exploitation included in the Convention's definition of THB, as well as to "service in the armed forces", and is open-ended ("or other forms of exploitation"). "Forced labour" is not criminalised separately in the CC, but has been interpreted by the Supreme Court.²⁸ In 2018, the Ministry of the Interior, together with the National Centre against Organised Crime and the Supreme State Prosecutor's Office, issued a "Common position on the interpretation of terms related to labour exploitation" (see paragraph 238). In 2010, the offence of "unauthorised employment of foreigners" was included in the CC, which refers to "particularly exploitative working conditions".²⁹ Trafficking for the purpose of exploitation of criminal activities and the exploitation of begging are not explicitly mentioned in Article 168 of the CC, but according to the Czech authorities, would be covered by "other forms of exploitation". Trafficking for the purpose of concluding marriages of convenience (also referred to as "forced" or "sham marriages") is not specifically criminalised as such, but according to an opinion issued by the Ministry of the Interior in 2016 concerning offences of trafficking in human beings in cases of marriage and forced marriage, it would also be covered by "other forms of exploitation".³⁰

57. GRETA notes that Article 168 of the CC does not specifically state the irrelevance of the victim's consent to the intended exploitation when any of the specified means are used, which is integral to the Convention's definition of THB. The Czech authorities have stated that in practice human trafficking is criminally punishable even where the victim has given his/her consent, although as regards adults only where some of the coercive "means" are used, which precludes a free decision of the victim (e.g. a threat or use of force or other forms of coercion). The authorities have stated that the CC provisions contain all the material elements of the respective offences and in case some modality is not mentioned, it means that it is irrelevant for the criminality of the respective offence, therefore a specific reference to the irrelevance of the victim's consent is considered redundant. In this context, the authorities have also referred to Section 30 of the CC, which provides for the consent of the aggrieved party as one of the conditions precluding the illegality of an act, noting that in case of human trafficking, the possible consent of the victim would not be given voluntarily, since some of the coercive means would have to be used, precluding the free will of the adult victim. As regards child victims, consent would not be given in an area where the child's interests would be affected, since the child does not have full legal capacity. Nevertheless, GRETA sees benefits in stating explicitly in legislation that consent is irrelevant to determining whether the crime of human trafficking has occurred. Setting out this pivotal principle in law could facilitate its use by investigators, prosecutors and judges when dealing with cases of human trafficking and in obtaining a more consistent approach. Indeed, consent is an important factor at different stages of human trafficking cases, for instance: if victims refuse to self-identify as they consider that they consented to the exploitation; when taking a decision on whether to investigate and prosecute a case as THB where the victim apparently consented to exploitation; or when deciding on the penalty for offenders where there are assertions of consent.³¹ **GRETA considers that stating explicitly the irrelevance of the consent of a victim of trafficking to the intended exploitation could improve the implementation of the anti-trafficking provisions.**

²⁸ Supreme Court of the Czech Republic, 7 Tdo 1261/2013; Supreme Court decision of 24 April 2019, No. 7 Tdo 404/2019, ECLI:CZ:NS:2019:7.TDO.404.2019.1

²⁹ Article 342 of the CC: "(1) Anyone who systematically, repeatedly, under particularly exploitative working conditions or to a greater extent illegally engages or mediates employment of a foreigner, who is staying illegally in the Czech Republic or does not have a valid work permit, if the latter is required under another legal regulation, shall be sentenced to imprisonment of up to six months, forfeiture or ban of activity. (2) Anyone who will employ or mediate the employment of a foreigner who is a child and who resides illegally in the territory of the Czech Republic or who does not have a valid work permit required under another legal regulation shall be equally punished as above. (5) The offender shall be sentenced to a term of imprisonment for one to five years or, in addition to this sentence the property will be forfeited, if the offence referred to in paragraph 1 or 2 is of great benefit to the offender or to another person" (unofficial translation).

³⁰ An amendment to the CC covering the luring of a person to another state to coerce them into marriage is currently being discussed.

³¹ See UNODC Issue Paper, *The Role of Consent in the Trafficking in Persons Protocol*, United Nations, Vienna, 2014. Available at: www.unodc.org/documents/human-trafficking/2014/UNODC_2014_Issue_Paper_Consent.pdf

58. For further analysis of the definition of THB and related offences from a substantive criminal law perspective, see paragraphs 216-223.

ii. Definition of "victim of THB"

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

60. A victim of a crime is defined by Section 2, paragraph 2, of the Act on Victims of Crime as follows: "a natural person who as a result of a crime has or may have received bodily injury, suffered property or non-pecuniary damage or at whose expense the offender gained from the crime".³² This definition also applies to victims of THB. Pursuant to Section 3, paragraph 1, of the Act on Victims of Crimes, every person believing to be a victim of a crime must be considered a victim, unless the contrary becomes evident or if it is not clearly a case of a misuse of the standing of the victim according to this Act. It is irrelevant for the standing of the victim, whether or not the offender has been identified or convicted. Pursuant to the Act on Victims of Crime, victims of THB are considered as particularly vulnerable victims (see also paragraph 243).

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

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

i. Comprehensive approach and co-ordination

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

63. The Czech authorities have set up structures to ensure the co-ordination of policies and actions against THB. As noted in paragraph 26, the Interdepartmental Co-ordination Group for Combating Trafficking in Human Beings brings together relevant governmental and non-governmental stakeholders. In addition to at least two meetings of the Group per year, a smaller group of experts meets approximately once a month to discuss and solve operational issues concerning individual cases.

64. Civil society plays a crucial role in anti-trafficking action in the Czech Republic. NGOs specialised in the field of human trafficking have full membership in the Interdepartmental Co-ordination Group. As noted in paragraph 29, the Ministry of the Interior funds the Programme for Support and Protection of Victims of Trafficking in Human Beings, which for the last four years has been implemented by La Strada Czech Republic through a public procurement agreement, with other NGOs being involved as subcontractors.

³²

Unofficial translation.

65. The Ministry of the Interior combines the roles of National Co-ordinator (Minister of the Interior) and National Rapporteur (Head of the Crime Prevention Department). The Czech authorities have stated that although the National Rapporteur is not an independent body, it is a well-developed system that allows effective information gathering and exchange, and has the competencies and capacity to react to actual situations without delay. According to the authorities, an independent mechanism would never have a detailed insight into the agenda, nor would it have sufficient contact with practice. GRETA would like to stress that Article 29 of the Convention makes a clear distinction between the roles of National Co-ordinator and National Rapporteur. In GRETA's view, the key features of National Rapporteurs' mechanisms in the sense of Article 29, paragraph 4, of the Convention³³ should be the ability to critically monitor the efforts and effectiveness of all state institutions, including national co-ordinators, and to that end maintain a constant exchange with civil society, the research community and other relevant stakeholders. The human rights-based approach to anti-trafficking policies advocated by the Convention requires adequate monitoring and evaluation. A structural separation between monitoring and executive functions enables an objective evaluation of the implementation of anti-human trafficking legislation, policy and activities, identification of lacunae and shortcomings, and the formulation of comprehensive legal and policy recommendations.³⁴ **GRETA considers that the Czech authorities should examine the possibility of designating as a National Rapporteur a separate organisational entity or another independent mechanism for monitoring the anti-trafficking activities of state institutions.**

66. GRETA did not meet members of Parliament during the evaluation visit and there is no parliamentary committee dealing with issues related to human trafficking. GRETA stresses the importance of focusing political attention on trafficking in human beings taking place in the Czech Republic as well as affecting Czech citizens abroad, for different forms of exploitation, and organising public hearings on this subject.

67. Since 2003, the Czech Republic has adopted five national strategies to combat THB. While the first strategy was exclusively aimed at combating trafficking for sexual exploitation, subsequent strategies have adopted a more comprehensive approach. The measures included in the current national strategy address all principal areas relevant to action against THB (see paragraph 21). The changing trends in human trafficking have been reflected in the priorities and actions of the national strategies.

68. In the early 2000s, the Czech Republic was primarily a country of origin, especially for women and girls trafficked for the purpose of sexual exploitation, but in recent years, there has been an influx of foreign workers to the Czech Republic due to very low unemployment levels and acute labour shortage in some sectors (e.g. construction, transportation, cleaning services). Foreigners account for nearly 11 percent of the Czech workforce, despite making up just 5 percent of the population.³⁵ At the same time, the number of victims of trafficking for labour exploitation identified by the police remains low (see paragraph 10). There were five final judgments in the area of labour exploitation in the period 2012-2015 (prior to that, there were no such judgments). The current National Strategy includes several tasks related to combating THB for labour exploitation, such as: i) analysis of labour law and criminal law shortcomings in relation to their influence on the origin and sanction of exploitative working conditions; ii) issuing updated Ministry of the Interior guidelines regarding the procedure and the interpretation of terms related to labour exploitation; iii) ensuring that workers are informed of the existence of centres for the support of the integration of foreigners. The previous National Strategy (2012-2015) also focused on THB for the purpose of labour exploitation.

³³ "Each Party shall consider appointing National Rapporteurs or other mechanisms for monitoring the anti-trafficking activities of State institutions and the implementation of national legislation requirements."

³⁴ In this context, see also the Summary report on the Consultative Meeting on Strengthening Partnerships with National Rapporteurs on Trafficking in Persons and Equivalent Mechanisms organised by the UN Special Rapporteur on trafficking in persons, especially in women and children, in Berlin, 23-24 May 2013.

³⁵ <https://www.radio.cz/en/section/curaffrs/foreigners-make-up-11-percent-of-czech-workforce-and-employers-are-calling-out-for-more>

69. The number of foreigners working in Czech households is on the rise, but there is a lack of data about this relatively informal economic sector. According to a report which appeared in 2013, an increasing number of Czechs hire part-time cleaners and live-in nannies from Ukraine, Belarus, the Philippines and other countries, but there is a lack of reliable data about the situation of domestic workers, this being a relatively informal economic sector. According to experts in the field, many work 12-15 hours a day, sometimes six or seven days a week, and often cannot take any vacation days because of fear of being sacked.³⁶ In 2013, the NGO campaign "Equal rights at Czech doorsteps" drew attention to the rights of migrant domestic workers. In their comments on the draft GRETA report, the Czech authorities have questioned the reliability of the report which served as the basis of the NGO campaign. The authorities have stated that if anyone decides to breach the law by executing illegal work, the rights guaranteed by the Labour Code cannot be provided, and such cases would not be considered as exploitation or THB, but as deliberate breaches of labour legislation. Further, the authorities have noted that it is very difficult to carry out labour inspections of households, given the inviolability of the dwelling.

70. GRETA notes that an Inter-ministerial Group on Combating Illegal Employment of Foreign Nationals, under the Ministry of Labour and Social Affairs, was established in 2009. There was also a Working Group on Forced Labour and Other Forms of Exploitation, established in 2009, to look into serious forms of labour exploitation.³⁷ According to the Czech authorities, the latter body is an inter-ministerial co-ordinating structure under the responsibility of the Ministry of the Interior, which has continued to meet regularly and provide a platform for discussing the issue.

71. The Czech Republic is not a party to the International Convention on the Protection of the Rights of Migrant Workers and Members of their Families, nor to the ILO Convention concerning Decent Work for Domestic Workers.

72. According to the Czech authorities, trade unions are members of relevant working groups addressing the issue of THB for the purpose of labour exploitation and have been involved in the development of policies for combating THB through expert discussions, inter-departmental meetings and legislative proposals. Trade unions provide information on the relevant procedures and rights of foreign workers in the Czech Republic (available in Czech and nine other languages).³⁸

73. GRETA stresses the Czech Republic's positive obligations under Article 4 of the European Convention on Human Rights to put in place adequate measures regulating businesses and other economic activity to ensure that they do not use trafficked or forced labour. In this context, GRETA refers to the European Court of Human Rights judgment in the case of *Chowdury and Others v. Greece* in which the Court found a violation of Article 4, paragraph 2, of the European Convention on Human Rights due to the failure of the Greek authorities to fulfil their positive obligations to prevent human trafficking, to protect victims, to effectively investigate the offences committed, and to punish those responsible for human trafficking offences.³⁹

³⁶ <https://www.radio.cz/en/section/czech-life/ngos-draw-attention-to-migrant-domestic-workers-rights-with-a-celeb-campaign>

³⁷ Report by OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings, Madina Jarbussynova, following her official visit to the Czech Republic (26-27 November 2015 and 21 January 2016), SEC.GAL/118/16.

³⁸ <https://www.cmkos.cz/cs/obsah/786/informacni-skladacka-zamestnavani-cizincu-v-cr/30009>

³⁹ European Court of Human Rights, *Chowdury and Others v. Greece*, application No. 21884/15, 30 March 2017.

74. Children accounted for more than half of the victims identified by the police in 2012-2015 (121 out of 226 victims), which is why the current National Strategy treats combating child trafficking as a priority. The statistics available for 2016-2018 (see paragraphs 10 and 13) also indicate that nearly half of the victims identified by the police were children. While child trafficking concerns primarily girls in forced prostitution or the production of pornographic materials, cases of trafficking for the purpose of forced begging or theft have also been reported.⁴⁰ In 2017, 35 children (30 boys and 5 girls) were placed in the Facility for Foreign Children (originating mostly from Afghanistan, as well as from Vietnam, Romania, the Slovak Republic, Ukraine, Sudan and other countries). The Czech Republic has been identified as a source of child sexual abuse material, hosting the second largest number of URLs distributing such material in the EU.⁴¹ The current National Anti-trafficking Strategy includes several tasks related to the priority of combating child trafficking: i) updating the Trafficking in Children Handbook; ii) creating a methodology for repatriation of trafficked persons under the age of 18; and iii) strengthening regional co-operation of the police and child protection departments.

75. The implementation of the National Strategy is periodically evaluated by the Ministry of the Interior. For example, the evaluation of the previous National Strategy (2012-2015), published in an annexe to the current National Strategy (2016-2019), notes that a small number of tasks (e.g. to map out the situation regarding trafficking in socially excluded localities; to ensure mandatory training of candidate judges on the issue of THB) were partially completed, whereas the majority of the assessed tasks (e.g. carry out comprehensive evaluation of the Programme for the Support and Protection of Victims of THB; provide training of labour inspectors, police officers travelling to foreign police missions and members of the armed forces; identify risk areas in public procurement and develop and implement recommendations to eliminate the risk of labour exploitation in public procurement) were completed.

76. GRETA welcomes the steps taken in the Czech Republic to develop the institutional and policy framework for combating THB, which involves civil society and follows a comprehensive approach. At the same time, GRETA notes the absence of an independent National Rapporteur and an independent, external evaluation of the implementation of the national strategies.

77. GRETA invites the Czech authorities to introduce a periodic independent evaluation of the national anti-trafficking strategy as a tool for assessing the impact of the activities and planning future policies and measures to combat THB, and to consider establishing an independent National Rapporteur or designating another existing independent mechanism for monitoring the anti-trafficking activities of State institutions (see Article 29, paragraph 4, of the Convention and paragraph 298 of the Explanatory Report).

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

- **strengthen action to prevent and combat THB for the purpose of labour exploitation by involving labour inspectors, trade unions, employment agencies, businesses and civil society in a joint platform and improving the identification of, and assistance to, victims of THB for the purpose of labour exploitation;**
- **address the vulnerability to trafficking of persons or groups affected by unfavourable social and economic conditions, in particular the Roma community;**

⁴⁰ 2017 Status Report on THB.

⁴¹ Defence for Children International Czech Section and ECPAT International, *Sexual Exploitation of Children in the Czech Republic*, 15 December 2018.

- **review the regulatory systems concerning migrant domestic and home care workers and ensure that inspections can take place in private households with a view to preventing abuse of domestic workers and detecting cases of human trafficking;**
- **working 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 UN's Guiding Principles on Business and Human Rights⁴² and Recommendation CM/Rec(2016)3 on human rights and business.⁴³**

ii. Training of relevant professionals

79. The Czech authorities have indicated that training on THB is provided to a range of professionals who may come into contact with victims of trafficking, with the involvement of NGOs and international organisations.

80. The National Centre against Organised Crime provides training on THB to specialised police officers. Furthermore, the Ministry of the Interior has prepared a comprehensive material focusing on the issue of THB, which was distributed to all police units. The issue of combating THB is included in the basic training of police officers, in the broader context on the modules "Fundamentals of Law", "Fundamentals of Criminology", "Riot and Alien Police Service" and "Communication and Police Ethics". Follow-up qualification courses in which, among other things, THB issues are taught, vary in duration from three to 70 days.

81. The current National Strategy for Combating Trafficking in Human Beings (2016-2019) includes two tasks related to training: i) to audit the training of police staff on the issue of THB; ii) to ensure continuous training of police officers concerning the Programme for the Support and Protection of Victims of THB. An audit was carried out which found that there is a need to strengthen the competencies of police officers in courses related to the identification of victims of trafficking and when in contact with particularly vulnerable victims. Further, a card has been created with basic information about the Programme of Support and Protection of Victims of Trafficking in Human Beings and how police officers can refer victims to it.

82. As regards the Aliens Police Service, in 2013 training on THB was provided to first- and second-line border control officers, based on the FRONTEX manual on human trafficking. Since September 2014, the qualification course "Combating trafficking in persons" has been delivered to Alien Police Service officers at the Police School in Holešov, covering issues such as how to identify victims of THB, interview them in an appropriate manner, and transmit the information obtained according to the established rules. At the time of writing, 10 police officers from the Aliens Police Service had been trained in 2019. This number corresponds to the number of police officers trained in other years.

83. Since 2014, IOM has been running a training course focusing on the legal aspects of human trafficking, assistance to victims, methods of interviewing victims and indicators for identifying cases of THB. In 2018, IOM held a series of seminars in different parts of the country, involving social workers, municipal staff and police officers, on interviewing and identifying victims of trafficking. It has also focused in recent years on working with companies on issues of ethical recruitment.

⁴² http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

⁴³ [Recommendation CM/Rec\(2016\)3](https://www.coe.int/t/e/treaties/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.

84. The IOM Office, together with the Ministry of the Interior, gives lectures on THB to all Czech consular officials prior to them being posted abroad, as part of their regular training.

85. In June 2018, UNHCR trained more than 40 social workers of the Refugee Facilities Administration and sub-contracted NGOs, as well as Ministry of the Interior guarantors of the State Integration Programme on standardisation of social services. A specific part of the training was devoted to the recognition of potential vulnerabilities related to human trafficking, and how to address them.

86. La Strada Czech Republic has been involved in many training activities, including the provision of training on the identification of victims of THB to social workers in removal centres.

87. The Czech authorities have indicated that the training of labour inspectors is organised through regular seminars with the participation of experts and in the form of seminars and training sessions which are provided in co-operation with other inspection bodies. In 2015, training events were organised by the police in the eight regional labour inspectorates. In 2017, a two-day training event was held for labour inspectors in Prague. Further, in 2018, a one-day expert seminar on labour exploitation and employment inspections brought together representatives of the State Labour Inspectorate, the Aliens Police Service, the Asylum and Migration Police Department, and the National Organised Crime Agency. In the context of training, the State Labour Inspectorate co-operates with NGOs and social partners. Labour inspectors are also involved in training workshops and conferences, including European multidisciplinary platform against criminal threats (EMPACT) meetings focused on labour exploitation and Europol seminars. In addition, two one-day seminars on "Intercultural Competences" were held in 2018. Other institutions, such as social partners, are also co-operating in the training and transfer of good practice. Further training on the identification of victims of THB for labour exploitation is envisaged in the current National Strategy.

88. Training of judges and judicial assistants is not obligatory and depends on a proposal or recommendation being made by the president of the respective court. The Judicial Academy periodically offers courses on THB and related topics, but GRETA was informed that the number of participants attending remains relatively low. Thus in 2018, a one-day seminar was organised, focusing on THB for labour exploitation, forced begging, forced marriage and forced criminality, with 23 participants. It involved lecturers from the United Kingdom, La Strada Czech Republic and the Czech police. In 2017, the Judicial Academy organised a seminar on "THB and other crimes against freedom and the rights to protection of the person and privacy", with some 37 participants (out of 90 initially planned to take part). In 2016, two seminars were held on "Crimes against human dignity in the sexual field". Other relevant training activities organised by the Judicial Academy have covered compensation in criminal proceedings, questioning of vulnerable victims, and investigation of human trafficking offences.

89. There are a number of prosecutors specialised in THB cases (two at the Supreme Prosecutor's Office and eight in Prosecutor's Offices in the regions) who have received training on THB. Once a year, a seminar on THB is organised for prosecutors, with the involvement of the National Centre for Organised Crime. Prosecutors can also take part in the training organised by the Judicial Academy.

90. According to the authorities, each ministry or agency also proposes seminars and workshops organised by accredited private providers, as part of professional development, focusing on exchanging best practices and knowledge. The Czech authorities have also referred to the participation of Czech officials in projects and international workshops which reportedly provide training on THB (e.g. the project entitled "Innovations to Prevent Labour Exploitation of EU Citizens", EMPACT meetings, expert workshops in Romania and the United Kingdom, and an international workshop at the Embassy of the United Kingdom in Vienna).

91. GRETA welcomes the training on THB provided to a range of relevant professionals, with the involvement of NGOs and international organisations. At the same time, various interlocutors noted that there would be benefits in organising more joint, multi-disciplinary training sessions. The fact that judges are not obliged to undergo training which provides them with specialist knowledge about THB was also highlighted as a problem. Further, it was noted that not only police officers dealing with organised crime, but also Aliens Police Service officers should undergo training on THB. Another professional group which could benefit from training on THB are health-care professionals.

92. **GRETA considers that the Czech authorities should take further steps to provide periodic training on THB and the rights of victims to all relevant professionals (including police officers, immigration and asylum officials, prosecutors, judges, social workers, labour inspectors, tax inspectors, child protection authorities, consular officials, health-care professionals). The training should be mainstreamed into the regular training curriculum of relevant professionals, at all levels, involve multi-disciplinary expertise, and be implemented systematically across the country. Future training programmes should be designed with a view to improving the knowledge and skills of relevant professionals which enable them to identify victims of trafficking for all forms of exploitation and assist and protect them, to ensure effective access to compensation for victims, to enable effective investigations and to secure convictions of traffickers.**

iii. Data collection and research

93. In the Czech Republic, the data on THB collected by the Police is limited to criminal investigations and indicates only the sex and age of the victim involved in criminal proceedings (as well as those of perpetrators). The nationality of the victim and the form of exploitation is not indicated in the statistics. The annual status reports on THB in the Czech Republic, prepared by the Crime Prevention Department of the Ministry of the Interior in its role as National Rapporteur, include separate data from the police, the Ministry of Justice (on convictions and sentences), the Ministry of Labour and Social Affairs (on inspections and irregular workers detected), the Ministry of Education (on presumed child victims of trafficking in the Facility for Foreign Children, with an indication of the nationality and form of exploitation), as well as La Strada Czech Republic (on presumed victims included in the Programme of Support and Assistance to Victims of THB) and IOM (on voluntary returns).

94. There have been plans to develop data collection in order to include the nationality of the victims and perpetrators,⁴⁴ but for the time being such data is not available. GRETA was informed by the Ministry of the Interior that improving data collection was considered as a priority and that an inter-ministerial group would be set up to collate available statistics from different relevant ministries and agencies. One of the tasks of the new National Strategy for the period 2020-2023 will be the analysis of data collection in the field of human trafficking and its improvement.

95. **For the purpose of preparing, monitoring and evaluating anti-trafficking policies, GRETA urges the Czech authorities to develop and maintain a comprehensive and coherent statistical system on trafficking in human beings, by compiling reliable statistical data on measures to protect and promote the rights of victims, as well as on the investigation, prosecution and adjudication of human trafficking cases. Statistics regarding victims should be collected from all main actors and allow disaggregation concerning sex, age, type of exploitation, country of origin and/or destination. This should be accompanied by all the necessary measures to respect the right of data subjects to personal data protection, including when NGOs working with victims of trafficking are asked to provide information for the national database.**

⁴⁴ According to the National Strategy for Combating THB (2016-2019), the Police Presidium, in co-operation with the Ministry of the Interior, prepared changes to the statistical system (ESSK), taking effect on 1 January 2016, that ensure that the nationality of victims will be recorded.

96. As regards research on THB, in 2010 La Strada Czech Republic published a study entitled “The Narrow Gateway to Human Rights - Identification of Trafficked Persons in the Czech Republic”, which dealt with the identification of cases of forced labour and other forms of exploitation of adults outside the sex industry.⁴⁵

97. Another study in the area of THB for the purpose of labour exploitation and forced labour, involving university researchers as well as La Strada Czech Republic, was published in 2013.⁴⁶ It provided a comparative analysis of legislation and case-law in the area of THB for labour exploitation.

98. La Strada Czech Republic also contributed to a study on trafficking for forced criminal activities and begging in Europe (“RACE in Europe”) which involved several countries and was published by Anti-Slavery International in 2014.⁴⁷ The study highlighted cases of trafficking for the purpose of forced labour in cannabis cultivation, in particular of Vietnamese citizens. It also explored trends in forced child begging, which concerned mostly Bulgarian and Romanian children.

99. Further, La Strada Czech Republic was involved in the EU-funded project “Empowerment of Migrant Women at Risk of Exploitation, Trafficking or Enslavement”, together with the Austrian NGO LEFÖ-IBF and the German NGO Ban Ying, which resulted in the publication in 2016 of the handbook “Migrant Women and Human Trafficking”.⁴⁸ The project focused on migrant women working in hidden or enclosed environments, such as households and cleaning services. The handbook offers practical tools for the identification of migrant women at risk of being trafficked.

100. As mentioned in paragraph 27, every year, the Ministry of the Interior publishes a status report on trafficking in human beings in the Czech Republic, which provides detailed information of the situation and trends in THB and related crimes in the given year, as well as the financial resources dedicated to combating THB, the provision of training, court practice and international co-operation, on the basis of information submitted by the members of the Interdepartmental Co-ordination Group.⁴⁹ Further, the Ministry of Labour and Social Affairs funds NGOs which are active in combating and researching THB, and has reportedly implemented a project in the field of THB.⁵⁰

101. GRETA considers that the Czech authorities should conduct and support further research on THB as an important source of information for the evaluation and planning of policy measures. Areas where research could be carried out include trafficking for the purpose of forced marriage and child trafficking, including live streaming of trafficking for the purpose of sexual exploitation of children.

iv. International co-operation

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

⁴⁵ Petra Kutalkova, La Strada Czech Republic, *The Narrow Gateway to Human Rights - Identification of Trafficked Persons in the Czech Republic*, Prague, 2010.

⁴⁶ Vit Strátecký, Daniel Topinka et al., *Developments in Trafficking in Human Beings for the Purpose of Labour Exploitation and Forced Labour*, Institute of International Relations, Prague, 2013.

⁴⁷ <http://www.antislavery.org/wp-content/uploads/2017/01/trafficking-for-forced-criminal-activities-and-begging-in-europe.pdf>

⁴⁸ *Migrant Women and Human Trafficking: Handbook for Professionals*, 2016.

⁴⁹ Available at: <https://www.mvcr.cz/clanek/obchod-s-lidmi-dokumenty-924305.aspx>

⁵⁰ https://portal.mpsv.cz/sz/zahr_zam/ukoncene-projekty/projekt_prevence_vykoristovani

103. In the Czech Republic, the basic legal instrument providing for international judicial co-operation in criminal matters is Act no. 104/2013 Coll. on International Judicial Co-operation in Criminal Matters. This Act provides for various forms of judicial co-operation in criminal matters, such as mutual legal assistance, extradition, transfer of criminal proceedings and the enforcement of criminal judgments and decisions. One part of the Act focuses on mutual co-operation between the Czech Republic and other EU Member States and transposes EU acquis such as the European Evidence Order, European Arrest Warrant, Confiscation Order, the recognition and execution of the decision imposing the penalty of imprisonment, and the recognition and execution of financial penalties. There are also specific provisions enabling co-operation of the Czech Republic with the International Criminal Courts and Tribunals.

104. Act no. 104/2013 Coll. on International Judicial Co-operation in Criminal Matters provides for the central authorities to deal with incoming requests for judicial co-operation in criminal matters. The Act provides for the possibility to concentrate the execution of the in-coming mutual legal assistance requests at one Public Prosecutor's Office (pre-trial stage) or court (trial stage), as well as the possibility to ask the foreign requesting authority to supplement the mutual legal assistance request if it is not complete. As a general rule, the execution of the incoming requests for judicial co-operation in criminal matters is concentrated on the regional level in order to have well-experienced prosecutors and judges dealing with the requests.

105. The provisions on co-operation in the area of THB form a standard part of bilateral treaties on police co-operation, such as with Israel (No. 41/2014) and with Bosnia and Herzegovina (No. 40/2014). The Czech Republic is also a party to many bilateral and multilateral treaties in the field of judicial co-operation in criminal matters (see paragraph 15).

106. GRETA was informed that the International Police Co-operation Division of the Police Presidium of the Czech Republic executes all communication towards the requested and requesting parties (Interpol, Europol and SIRENE) as speedily as possible (documents are usually communicated in a matter of hours or days).

107. As part of the EU Policy Cycle EMPACT, the Czech police participates in the implementation of the priorities and activities carried out in line with operational actions aimed at different areas of criminality related to the THB. The Czech police regularly participates in the European Joint Actions Days related to sexual and labour exploitation. In addition, the National Centre for Combating Organised Crime undertakes bilateral joint actions with Germany and Austria.

108. The Czech Republic has participated in six Joint Investigation Teams (JITs) in transnational human trafficking cases with the United Kingdom and three JITS with Romania.

109. Any judicial authority may provide spontaneous information to a foreign authority through the same channels as are generally used for mutual legal assistance requests, pursuant to Section 56 of the Act no. 104/2013 Coll. on International Judicial Cooperation in Criminal Matters. Moreover, in justified cases, spontaneous information may be exchanged through informal channels, such as the European Judicial Network or Europol. Furthermore, the police can also provide spontaneous information according to the Act no. 273/2008 Coll. on the Police of the Czech Republic or according to specific bilateral or multilateral international agreements.

110. The State Labour Inspection Office (SLIO) can share information via the European Internal Market Information System (IMI). Even though the IMI system is not primarily intended for issues of THB for the purposes of labour exploitation, information of this sort may be shared with the registered European authorities. The SLIO, together with officers from the National Organised Crime Agency, participates in EMPACT meetings and European Joint Action Days aimed at combating THB for the purposes of labour exploitation (see also paragraph 151).

111. **GRETA welcomes the involvement of the Czech Republic in international co-operation in the area of combating THB and invites the Czech authorities to continue international co-operation on action against THB, including the investigation of transnational THB cases, and to explore further possibilities for co-operation with governmental and non-governmental actors in countries of origin, destination and transit, with a view to providing assistance to, and safe referral for, victims of trafficking and preventing THB.**

2. Implementation by the Czech Republic of measures aimed at preventing trafficking in human beings

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

a. Measures to raise awareness

113. A number of preventive and informative activities on human trafficking are carried out every year by different stakeholders, in particular NGOs. These activities are primarily financed by the Ministry of the Interior, the Ministry of Labour and Social Affairs, the Norway Grants and EU funds. Each activity focuses on human trafficking from a different angle and is tailored to the specific needs of the target group, using the best possible way to communicate the message (e.g. posters on the public transportation and in streets, internet campaigns, e-learning modules, fieldwork, workshops).

114. By way of example, reference could be made to the following awareness-raising activities which took place in 2016-2018:

- The EU-funded project "Empowerment of Migrant Women at Risk of Exploitation, Trafficking or Enslavement", implemented in the Czech Republic by La Strada Czech Republic (see paragraph 99), aimed at finding appropriate ways to ensure that women working in closed environments (e.g. households, hotels, restaurants, cleaning services) can access information on their rights. The project also focused on informing about possibilities of using the social and legal services of specialised NGOs;
- The project "Prevention of THB and Labour Exploitation in the EU", implemented by the Ministry of Labour and Social Affairs, targeted potential labour migrants in their home countries, using an e-learning module, in Bulgarian and Romanian, containing basic information from the labour-law area and drawing attention to potential risks. This project was a continuation of a similar project implemented in 2014-2015 and targeting Bulgarian and Romanian migrant workers;⁵¹
- The preventive programme "Faces of Love", targeted children and adolescents in orphanages and reformatories, who were informed about the issues and risks associated with human trafficking, prostitution and violence;
- An umbrella campaign focusing on trafficking in human beings and exploitation in construction, agriculture and prostitution was supported by the Ministry of the Interior, Leo Burnett, Philip Morris International, the National Cafe and the Prague Public Transit Co. As part of this

⁵¹ More information about the project can be found at: https://portal.mpsv.cz/sz/zahr_zam/ukoncene-projekty/projekt_prevence_vykoristovani.

campaign, some 70 city lights with a total of seven images were placed in Prague (mostly in metro stations), four images focused on THB in general, and three images on the target group of potentially trafficked persons. The same images were used in buses and trams in Prague, accompanied by the distribution of leaflets.

115. Social workers of La Strada Czech Republic carry out outreach work on a regular basis at places frequented by potentially trafficked and exploited persons (e.g. illegal job centres, cheap lodgings, construction sites, storage facilities, marketplaces). The field workers disseminate La Strada's information materials in order to make the target groups aware of their rights and options. They also organise debates and lectures on THB for specific communities (e.g. the Philippines community in Prague). La Strada Czech Republic operates an SOS and information helpline (222 717 171, 800 077 777) for victims of human trafficking and exploitation, which is advertised through leaflets available in a range of languages, while on-line consultations are offered in Czech, English, Romanian and Russian. In 2017, 880 persons were contacted during outreach work and 1,100 contacts were made through the helpline (by phone and email).

116. In co-operation with the UK's Gangmasters and Labour Abuse Authority (GLAA), an information leaflet on labour exploitation in the UK was produced and distributed in the Czech Republic and among Czech communities in the UK, together with a link to a detailed report on the situation in the UK.

117. The National Strategy for Preventing Violence against Children (2008-2018) placed an emphasis on developing primary prevention measures, targeted at the general public to change attitudes through education and awareness. The Ministry of the Interior funded a series of awareness-raising campaigns concerning THB, including videos by La Strada and Archdiocese Charity Prague on human trafficking and exploitation, disseminated on Internet sites advertising services and job opportunities to target people potentially at risk.

118. To promote online safety amongst children, the Czech Safer Internet Centre, which is a collaboration between the NGO National Safer Internet Centre and the government, organises annually the Safer Internet Day, involving children through debates and workshops on safer Internet use, and producing videos targeting children and youth concerning threats in the online world, such as cyber stalking and online grooming.

119. In co-operation with the European Crime Prevention Network (EUCPN), there are currently plans for launching a new campaign. The EUCPN developed a flyer adjusted to the specific situation in each EU Member State and will develop an animated video based on the content of the flyer. The goal is to inform victims of THB of the fact that they have EU-wide rights. As a part of the campaign, a press release and a common media strategy will be prepared, including social media posting with short messages and #hashtags that Member States may use.

120. The Probation and Mediation Service (PMS) was at the time of writing implementing a media campaign aimed at promoting the rights of victims. According to the campaign evaluation report (available only in Czech), the campaign saw a slight increase in the number of victims seeking help.

121. A preventative video library of campaigns has been created on a website⁵² and will be continually updated; it is accessible to the general public and will be promoted in schools and socially excluded localities.

122. Most of the above-mentioned preventive activities were implemented by organisations providing victims' support in order to raise awareness of the existing services and the rights of victims. Before a specific campaign is launched, all aspects are considered (e.g. language, environment), including past experience. The Czech authorities have stated that they cannot evaluate the impact of such campaigns properly, although based on past experience, they know that these campaigns have an impact (e.g. victims informed relevant bodies where they have learned about their rights).

123. GRETA welcomes the attention given to preventing THB through information and raising awareness, focusing on vulnerable groups, and invites the Czech authorities to continue their efforts. Greater attention should be paid to informing the public about the risks of recruitment through social media and the Internet. Future awareness-raising activities should be designed in the light of impact assessment of previous measures, focusing on the needs identified.

b. Measures to discourage demand

124. In accordance with the Convention, measures to discourage demand for the services of victims of trafficking, especially women and children, should be understood as a positive obligation on Parties to adopt and reinforce such measures as regards THB for the purpose of any form of exploitation (see paragraph 108 of the Explanatory Report of the Convention). As is stated in the Recommended Principles and Guidelines on Human Rights and Human Trafficking, strategies aimed at preventing THB should address demand as a root cause of trafficking.⁵³

125. In the Czech Republic, prostitution as such is neither prohibited⁵⁴ nor regulated at central level. As a result of municipal ordinances restricting the practice of prostitution in public spaces, in the capital and other major cities, prostitution has in recent years moved away from the streets into erotic clubs, private homes and escort services. Street prostitution occurs on a decreasing scale in specific areas, e.g. the border areas with Austria and Germany. There is an increased use of mobile applications for communications and registration of clients, escorts and erotic nightclubs.⁵⁵ According to the NGO Rozkoš bez rizika, which specialises in monitoring prostitution, out of over 2,000 persons rendering sexual services for a fee with whom contact was established in 2017, in only one case indicators of THB were detected.⁵⁶ Another NGO, KARO, which carries out outreach work along the German-Czech border, reported a drop in street prostitution.

126. The Czech authorities have stated that the awareness-raising activities referred to in paragraphs 114-117, and educational programmes for boys and girls during their schooling, contribute to discouraging demand. The last campaign targeting clients of prostitution took place in 2007-2008; it was organised by IOM with the aim of raising awareness of human trafficking and spreading information about the support available to victims. The message of the campaign drew on the results of a study carried out in 2005 on clients of prostitution as well as a pilot information campaign in 2006, targeting the same group in border regions. The campaign also aimed to sensitise the general public to human trafficking, mainly for sexual exploitation purposes.

⁵³ Principle 4 of Addendum to the report of the United Nations High Commissioner for Human Rights (E/2002/68/Add. 1), <http://www.ohchr.org/Documents/Publications/Traffickingen.pdf>

⁵⁴ "Pimping" is criminalised in Article 189 of the CC as "forcing, procuring, hiring, inciting or enticing another person to practice prostitution, or profiting from prostitution practices by others".

⁵⁵ 2017 Status Report on THB in the Czech Republic, pp.9-10.

⁵⁶ *Ibidem*.

127. The Czech Labour Office, when issuing work permits to seasonal workers from third countries, provides written information on the rights and obligations of seasonal workers, including information on the procedure for filing a complaint for violation of labour law regulations (pursuant to Part 96 of Act no. 262/2006 Coll., the Employment Act). In addition, the Ministry of Labour and Social Affairs provides information in a range of languages on its website concerning possibilities of employment for foreigners in the Czech Republic, their rights and obligations, possible risks and solutions to adverse life situations.⁵⁷ As regards employment agencies, their list is published on the Ministry's website.⁵⁸ In 2018, representatives of the Ministry provided personal and telephone consultations to interested persons and participated in seminars and conferences where they presented up-to-date information on illegal employment of foreigners in the Czech Republic. In co-operation with the Ministry of the Interior, the Ministry of Labour and Social Affairs contributed to the updating of information materials, including a leaflet providing information to employers interested in employing foreigners in the Czech Republic.

128. Of relevance to discouraging demand are the activities of the State Labour Inspection Office (SLIO), which carries out inspections to ensure that all employment complies with the provisions of Act No. 435/2004 Coll. (Employment Act), Act No. 262/2006 Coll. (the Labour Code) and other relevant legal provisions on working and remuneration conditions. Inspections are carried out together with health and safety officers and the Aliens Police Service (see also paragraph 152).

129. The use of the services of victims of THB, with the knowledge that a person is a victim, is not criminalised as such in the Czech Republic. However, the authorities have stated that pursuant to Article 168 of the CC, not only a person who committed THB, but also any person profiting from such conduct is subject to criminal penalty (see paragraphs 51 and 221).

130. **GRETA considers that the Czech authorities should adopt and strengthen legislative, administrative, educational, social, cultural or other measures to discourage demand for the services of trafficked persons, for all forms of exploitation, in partnership with civil society, trade unions and the media, including by:**

- **raising awareness of the important role of the media and advertising in tackling demand which leads to human trafficking;**
- **promoting awareness among businesses, strengthening corporate social responsibility and preventing trafficking in supply chains;**
- **implementing educational programmes at schools that stress the importance of gender equality and respect for the dignity and integrity of every human being and the consequences of gender-based discrimination.**

⁵⁷ This is done mainly through the Integrated MLSA Portal http://portal.mpsv.cz/sz/zahr_zam, as well as the websites: www.mpsv.cz; www.eures.cz; www.suip.cz, www.cizinci.cz.

⁵⁸ https://portal.mpsv.cz/sz/zamest/zpr_prace

c. Economic, social and other initiatives for groups vulnerable to THB

131. Although the lack of data disaggregated according to ethnicity precludes a reliable assessment of the occurrence of human trafficking in the Roma communities, numerous reports indicate that Roma are particularly vulnerable to human trafficking. According to research conducted by the European Roma Rights Centre and People in Need in Bulgaria, the Czech Republic, Hungary, Romania and the Slovak Republic, trafficking in human beings affects Roma disproportionately.⁵⁹ There is evidence that Roma are highly vulnerable to trafficking due to structural forms of ethnic and gender discrimination, poverty and social exclusion which result in low educational achievement, high levels of unemployment, growing up in state care, and difficult living conditions.⁶⁰ In the Czech Republic, even though no data is collected according to ethnicity, there are reports that trafficking affects Roma, notably women and girls for the purpose of sexual exploitation and sham marriage, but also men and boys for the purpose of labour exploitation, as well as welfare benefits and credit fraud.⁶¹

132. The Czech authorities have taken measures designed to combat the above-mentioned negative factors and prevent the trafficking of Roma. A Roma Integration Strategy until 2020 was approved in 2015. The National Plan on Roma for 2014-2017 aimed at addressing gaps in the Roma community's access to education. Further, amendments to the Schools Act in January 2017 introduced a compulsory and free of charge final year of pre-school education for all children who have reached the age of five years, aiming to involve socially disadvantaged children in pre-school education, in order for them to be better prepared to enter the first year of primary school. The act provides for the progressive introduction of compulsory pre-school for children aged four years from 1 September 2017, then for children aged three years from 1 January 2018, and finally for children aged two years from 1 January 2020. The Public Defender of Rights has described this development as a big step in the exercise of the right to education, especially for Roma children. However, it is too early to evaluate the impact of the change.⁶² Every year, the Ministry of Education monitors the situation of Roma pupils in education. Currently the Council for Roma Minority Affairs of the Office of the Government is preparing a new Roma Integration Strategy for the coming years.

133. The Czech authorities have also referred to several programmes run by the Ministry of Regional Development, namely the JESSICA (Joint European Support for Sustainable Investment in City Areas) Programme, which provided co-financing for the modernisation of 5,869 flats, and the Programme Re: START, which helps economically deprived regions to stimulate regional economic performance. Of relevance are also various programmes in the area of housing (e.g. building social housing, low-interest construction, low-interest loans for repairs and modernisation). According to the Ministry of Labour and Social Affairs, there are about 68,500 homeless persons and 119,000 persons at risk of losing their homes in the Czech Republic (the most common reason being debt). The Ministry is implementing a social housing system project. Further, selected municipalities provide housing to people in need in so-called crisis flats.

⁵⁹ European Roma Rights Centre and People in Need, *Breaking the Silence: Trafficking in Romani Communities*, Budapest, March 2011.

⁶⁰ *Ibid.*, p.12.

⁶¹ <http://www.romea.cz/en/news/romani-police-officer-roma-are-both-perpetrators-and-victims-of-modern-day-slavery>

⁶² See ECRI Conclusions on the implementation of the recommendations on the Czech Republic subject to interim follow-up, CRI(2018)22, published on 15 May 2018.

134. Through the Continuing Education Fund Project "Support for the Integration of Foreign Nationals into the Labour Market", a number of activities were organised targeting migrant workers. In 2018, an interactive website⁶³ was updated, providing information on the functioning of the Czech labour market, labour law relations, risks, possibilities for interpretation and advisory services, comprehensive advice on the legislation and the Czech social system. Content is available in Czech, English, Russian, Bulgarian, Chinese, Romanian and Vietnamese. The web application also offers a guide to regional services.⁶⁴ Further, in 2018 the Ministry of Labour and Social Affairs updated the information material "Interpreting for Foreigners at the Authorities" on the possibility of using the services of community interpreters, or services of intercultural workers, for communicating with foreign nationals with a language barrier.

135. GRETA considers that the Czech authorities should continue strengthening prevention of THB through targeted social and economic empowerment measures for groups and persons vulnerable to THB, in particular the Roma community and migrant workers.

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

136. The National Centre against Organised Crime regularly monitors suspicious activities and carries out risk assessments. These activities are carried out in close co-operation with the Aliens Police Service and other relevant police departments. In necessary cases, operational searching means can be also used (e.g. surveillance, use of an agent) according to the Act no. 273/2008 Coll. on the Police of the Czech Republic.

137. Information and instructions regarding the issue of visas are available on the website of the Ministry of Foreign Affairs.⁶⁵ Each consular officer is trained before commencing his/her position (see paragraph 84) and subsequent training is also provided. The Czech authorities have indicated that consular officers carry out an extensive examination of visa applications with regard to the purpose of the journey through scrutiny of supporting documents and interviews. These measures do not target THB directly, but can reveal a misuse of visas.

138. Furthermore, NGOs, particularly La Strada Czech Republic, co-operate with foreign embassies in the Czech Republic as well as with Czech embassies abroad, providing them with materials and contact information that can be given to potential victims of THB.

139. The Czech authorities have stated that the system of issuing residence permits is transparent, and in general there was no quota until recently for the number of issued permits.⁶⁶ The law stipulates clear requirements for each application, minimising the need for illegal migration. Reference has already been made in paragraphs 127 and 134 to the information available in different languages concerning working in the Czech Republic. As of 1 September 2019, the Czech Republic applies a new system of economic migration projects with quotas for the number of employee cards from different countries, stipulated by a Governmental Regulation (No. 220/2019 Coll.).

140. The Czech authorities have adopted provisions to prevent human trafficking for domestic servitude in diplomatic households, optimising the procedure for issuing visas and residence permits to service staff in diplomatic households, including by requiring such staff to be interviewed personally by officials of the Ministry of Foreign Affairs when applying for a residence permit.⁶⁷

⁶³ <http://prace-v-cr.cz/>

⁶⁴ <http://www.praceveskerekpublice.cz/index.php/pruvodce-2/>

⁶⁵ https://www.mzv.cz/jnp/en/information_for_alien/index.html

⁶⁶ As regards Ukraine, GRETA was informed that there is an annual quota for work permits.

⁶⁷ OSCE Special Representative's report.

141. **GRETA invites the Czech authorities to continue making efforts to detect and prevent THB through border control measures, in particular by:**

- **strengthening the capacity of all competent law enforcement bodies to detect indicators of THB and ensure prompt and effective access to assistance and protection;**
 - **providing information to foreign nationals arriving irregularly or seeking asylum, in a language that they can understand, about the risks of THB, their rights and the availability of legal assistance, counselling and other services. In this context, GRETA refers to the United Nations Office of the High Commissioner for Human Rights (OHCHR) 2014 Recommended Principles and Guidelines on Human Rights at International Borders and the OHCHR Report on the situation of migrants in transit (2016).⁶⁸**
- e. Measures to ensure the quality, security and integrity of travel and identity documents

142. The Czech authorities have indicated that Czech identity documents correspond to EU standards. To ensure quality, security and integrity of travel and identity documents and to prevent their unlawful creation and issue, as well as to ensure that they cannot be easily forged, there is a sophisticated system of security features. For example, safety features are implemented during papermaking, the production of the documents, the documents' personalisation and by the insertion of a chip with biometric data.

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

- a. Identification of victims of trafficking in human beings

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

144. In the Czech Republic, there is no procedure for the identification of victims of human trafficking which is independent of the criminal investigation. The police and the prosecution authorities can identify victims of THB while performing their activities, in the context of criminal investigations/prosecutions. Furthermore, NGOs, other public authorities and local authorities can inform the investigating and prosecuting authorities about presumed victims. In the criminal process, a person can also "self-identify" as a victim of THB by filing a criminal complaint with the police or prosecution authorities, demonstrating what she/he believes constitutes an evidence that the criminal offence has been committed.

⁶⁸

http://www.ohchr.org/Documents/Issues/Migration/OHCHR_Recommended_Principles_Guidelines.pdf

145. The Czech Government first established a National Referral Mechanism (NRM) for support and protection of victims of trafficking in 2003. An Instruction of the Minister of the Interior, dated 15 February 2010, modified the operation of the NRM. Further, Methodological Guidelines of the functioning of the Programme on Support and Protection of Victims of Trafficking in Human Beings and its institutional back-up, issued on behalf of the First Deputy Minister of the Interior on 7 June 2010, regulate the NRM.⁶⁹ However, GRETA notes that these documents do not provide an actual procedure for the identification of victims of trafficking, by setting out the roles and responsibilities of different actors when there are indicators that a person might be a victim, but rather deal with the functioning of the Programme on Support and Protection of Victims of THB (see paragraphs 165-168).

146. Presumed victims of THB can enter the Programme for Support and Protection of Victims of Trafficking in Human Beings and be provided with a reflection period of up to 60 days, during which they have to decide on whether to co-operate with law enforcement agencies (see paragraph 189). A proposal to enter the Programme is made by the police or a specialised NGO. After the expiry of the 60 days, a person can continue to benefit from the Programme only if he/she agrees to co-operate in the criminal investigation. There is no process of formal identification of a person as a victim of THB or granting the status of such a victim. According to the Czech authorities, if the testimony of the potential victim fulfils the requirements of Section 168 of the CC, this is considered as "reasonable grounds" for identification. If the police decides that no THB offence has been committed, the person has to leave the Programme.

147. If it becomes evident that the person is actually not a victim of a crime or is clearly misusing the status of a victim according to the Act on Victims of Crimes, he/she is no longer treated as a victim. The court will decide that such a person will not be admitted to the trial proceedings as the aggrieved person. No appeal is available. Nevertheless, the person concerned may file a request for a review of the procedure of the police authority to the public prosecutor or claim damages in line with the Act no. 82/1998 Coll. on Liability of the State for Damage Caused by Decision or Maladministration while Exercising Public Authority. Although there are no official statistics, the Compensation Department of the Ministry of Justice is not aware of any cases in which a person requested compensation for damage caused by a decision of a public authority or an incorrect official procedure by claiming that he/she was denied the status of a victim.

148. GRETA was informed that the provision of sexual services has become more hidden in recent years, moving from the streets and clubs to private places and rented accommodation, which makes it more difficult for the police and front-line NGOs to reach out to persons involved in prostitution. This has reportedly resulted in a drop in the number of identified victims of THB for sexual exploitation.

149. As noted in paragraph 12, trafficking for the purpose of labour exploitation has been on the rise, but the number of identified victims of THB remains low. The State Labour Inspection Office (SLIO) and its eight regional branches employ some 550 labour inspectors whose duties include ensuring compliance with the provisions of the Employment Act, the Labour Code, other legal provisions on working and remuneration conditions, as well as on occupational safety and health. Domestic work is outside the scope of labour inspectors' mandates and inspections do not take place in private households. Both regular and unscheduled inspections take place. Labour inspectors can talk confidentially to workers, without the presence of the employer, and can use interpreters.

⁶⁹ These documents are available, in Czech, at: <https://www.mvcr.cz/clanek/obchod-s-lidmi-dokumenty-924305.aspx>

150. Labour inspectors do not have investigative powers and do not have a mandate to identify victims of THB. If labour inspectors suspect that inspected employees could be victims of trafficking or labour exploitation, they consult their supervisor, who contacts the police. In case of detection of employees in an irregular situation, labour inspectors have to inform the law enforcement agencies. Labour inspectors organise joint inspections of work places together with the Police, the Aliens Police Service and the Financial Police, in particular in order to detect illegal employment.

151. According to information provided by the SLIO, there were a total of 22,995 inspections in 2018; some 3,500 illegally employed workers were detected, mostly in construction and manufacturing, including some 3,000 from Ukraine and 200 from Vietnam. The number of detected illegally employed workers was 2,918 in 2017 and 2,290 in 2016.⁷⁰ By way of example, in November 2017, control actions focused on detecting employees in an irregular situation were carried out in Thai massage salons in Prague, the Central Bohemian Region and the town of Rozvadov. A total of 17 business premises were inspected and 33 infringements of the labour legislation were established, including employment of Thai citizens without work permits, absence of work contracts, failure to pay the minimum wage, and failure to pay premium payments for work on Saturday and Sunday. In 2018 labour inspectors participated for the first time in the European Joint Action Days aimed at combating THB for the purposes of labour exploitation; some 54 inspections took place, but not victims of THB were identified.

152. Reference should be made to a document entitled "Common position on the interpretation of terms related to labour exploitation", issued by the Ministry of the Interior in 2018, with input from the Supreme Prosecutor's Office, which provides an analysis of concepts and case-law, as well as a list of indicators of human trafficking for the purpose of labour exploitation.⁷¹ The State Labour Inspection Office has indicated that the indicators are used in training. A similar document entitled "Training material for the State Labour Inspection Office" has previously been created by the Criminality Prevention Department of the Ministry of the Interior in 2014.

153. GRETA notes that the identification of victims of THB for the purpose of labour exploitation may be challenging: differences arise in practice in the interpretation and application of labour standards and in defining labour exploitation. Victims, particularly if in an irregular migration situation, may be reluctant to make complaints or to engage in criminal proceedings because of fear of deportation or retaliation from traffickers. Combating trafficking for the purpose of labour exploitation therefore requires co-ordinated action between the State, civil society, trade unions and the private sector.⁷² In this context, GRETA refers to the European Court of Human Rights judgment in the case of *Chowdury and Others v. Greece* in which the Court found a violation of Article 4, paragraph 2, of the European Convention on Human Rights due to the failure of the Greek authorities to fulfil their positive obligations to prevent human trafficking, to protect victims, to effectively investigate the offences committed, and to punish those responsible for human trafficking offences.⁷³

154. The police statistics on identified victims of THB do not refer to any victims for the purpose of being forced to engage in criminal activities. The study referred to in paragraph 98 highlighted cases of trafficking for the purpose of forced labour in cannabis cultivation, in particular of Vietnamese citizens.⁷⁴ According to the study, the police are aware of the coercion and deception tactics used by traffickers, such as debt bondage, but find investigating trafficking problematic due to the victim's lack of trust of the police and the difficulty of penetrating organised criminal groups.

⁷⁰ 2017 Status Report on THB in the Czech Republic, p. 44.

⁷¹ Available, in Czech, at: <https://www.mvcr.cz/clanek/obchod-s-lidmi-dokumenty-924305.aspx>

⁷² GRETA's 7th General report on activities, paragraph 70.

⁷³ European Court of Human Rights, *Chowdury and Others v. Greece*, application No. 21884/15, 30 March 2017.

⁷⁴ http://www.antislavery.org/wp-content/uploads/2017/01/trafficking_for_forced_criminal_activities_and_begging_in_europe.pdf

155. The Czech Republic is a destination country for asylum seekers from countries that were previously part of the Soviet Union, but other asylum seekers often move onwards to other EU Member States. According to UNHCR, the year 2018 saw the highest number of asylum applications in the last 10 years (1,654). The majority of asylum-seekers originated from Ukraine, Georgia, Cuba and Vietnam. Persons granted international protection were mostly of Syrian, Iraqi and Ukrainian origin. UNHCR reports that conditions in reception facilities are relatively good and recognised refugees and beneficiaries of subsidiary protection enjoy similar rights and obligations as nationals with regard to health care, education, employment and accommodation. However, despite the provision of some training (see paragraphs 83, 85 and 86), there is still a lack of expertise among asylum and border authorities to identify victims of THB, who are often traumatised, coerced by traffickers to disclose only instructed information or simply afraid to speak up. Asylum seekers subject to returns under the Dublin Regulation,⁷⁵ including children, are routinely kept in detention. Monitoring done by NGOs has brought to light the lack of identification or belated identification of cases of human trafficking.

156. The NGO OPU employs some 20 lawyers who provide legal aid to asylum seekers and have access to all reception and migration detention facilities. In two cases, Nigerian victims of trafficking were detected by OPU lawyers while being placed in detention pending deportation. In the first case, dating back to 2014, a young pregnant Nigerian woman who had arrived in the Czech Republic after having spent five years in Italy where she had been exploited in prostitution, was detained for almost two months pending her deportation to Italy. After being detected as a possible victim of THB, the woman was interviewed by staff of La Strada Czech Republic, who found indicators of human trafficking. The Public Defender of Rights used her mandate in relation to the supervision of the lawfulness of deprivation of liberty and obtained the transfer of the Nigerian woman to the shelter of La Strada as a presumed victim of trafficking. The Nigerian woman applied for asylum and was granted it on the humanitarian grounds of being a victim of human trafficking. She was eventually provided with housing in an asylum shelter which provides assistance to mothers with children.

157. In the second case, a Nigerian woman was arrested by the Aliens Police Service and placed in detention pending her asylum proceedings. She was detected by an NGO lawyer and interviewed by staff of La Strada Czech Republic, who identified her as a victim of THB. Subsequently, she lodged a request for release from detention, arguing that she was a THB victim and therefore considered to be especially vulnerable (pursuant to Section 2(1)(a) of the Asylum Act). She attached the report of La Strada to support her request, which was to no avail. The Public Defender intervened and obtained the woman's release, after three months of detention, and transfer to an open facility. The Public Defender argued that it was not unusual for a person not to mention immediately his/her experience of having been trafficking. Despite the woman's release, the Ministry of the Interior disagreed with the opinion that she was a victim of THB. The court of first instance rejected the woman's complaint about her detention, arguing that she had not mentioned her trafficking experience at the outset of the proceedings. It did not take into account the report of La Strada, as it considered it implausible and merely based on an interview with the woman. The Supreme Administrative Court revoked the judgement of the court of first instance because it had failed to take into account the evidence of La Strada.⁷⁶ Subsequently, the court of first instance refused to take that evidence as it found that the state of facts was established sufficiently from the administrative file.⁷⁷ The Regional Court then denied the claimant's argument that the respondent (administrative authority) was obliged to determine whether she was a vulnerable person only because she had arrived from Benin City, Nigeria, reiterating that she had failed to mention anything about trafficking when asked by the respondent about her health and reasons for applying for asylum. The claimant lodged a cassation complaint against the Regional Court's judgement and the case was pending before the Supreme Administrative Court.

⁷⁵ Regulation (EU) No. 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (Dublin III Regulation).

⁷⁶ Judgement of 25 June 2019, case no. 4 Azs 62/2018-57.

⁷⁷ Judgement of 19 August 2019, case no. 52 A 1/2018-45.

158. GRETA notes that child victims of THB identified in the Czech Republic have accounted for nearly half of the identified victims (see paragraph 13). The majority of them were girls exploited in prostitution. In the annual report on social and legal protection, the Ministry of Labour and Social Affairs reports on children who have been abused for the purpose of child prostitution and child sexual image abuse; however, these cases have not all been classified as THB.⁷⁸ If the Authority for Social and Legal Protection of Children (ASLPC), which is responsible for protecting the rights and defending the interests of vulnerable children, receives information about an abused child, the case is investigated in collaboration with the police and other experts in order to assess the child's and the family's situation. Where a child is identified as a victim, the court appoints a guardian in a preliminary hearing; this can be a member of the child's family or a temporary foster family. Alternatively, a child can be placed in a public institution for children. Such children have a legal right to reside in the Czech Republic and have access to health care and other assistance (psychological help, therapy). The court's decision is valid for one month and after review can be prolonged up to six months in total. Afterwards, there are the following options which are always chosen with regard to the best interests of the child: i) repatriation, ii) unification with a family living abroad, or iii) accommodating the child in the Czech Republic (following a court's decision about a foster family or a relevant institution).

159. The Facility for Foreign Children was set up in 2003 and is entrusted with the care of all unaccompanied foreign children, who are placed there by court decision. The Facility has a capacity of 30 places and accommodates some 50 children per year. If staff detect a possible child victim of THB, they inform the police. Annually, some 1-2% of the children are detected as presumed victims of THB, usually trafficked for forced begging or criminal activities. The 2017 Status Report on THB in the Czech Republic refers to three cases in which indicators of THB were detected: a 17-year old Nigerian girl, who had reportedly been forced into prostitution in Italy, and was transferred to the refugee facility upon reaching adulthood; a 15-year old Romanian girl, apprehended for pick-pocketing, who was handed over to her father; and a 17-year old Vietnamese boy, who was transiting the Czech Republic on his way to Germany where a man had promised him work, and who ran away from the facility.⁷⁹

160. GRETA recalls that the issue of identification is of fundamental importance. Without trafficked people being identified as such, the whole system of assistance and protection would become irrelevant. It is therefore vital for the State to ensure that an effective system for proactive identification of victims of trafficking is put in place, irrespective of their nationality and immigration status. Many trafficked people do not always identify themselves as victims and are not aware of the legal meaning behind the term. Therefore, the onus of identification lies with the authorities. At the same time, GRETA considers that specialised NGOs can substantially contribute to the victim identification process and should be involved in a multi-agency effort to ensure that no victim of trafficking remains unidentified. This is envisaged by Article 10 of the Convention, according to which identification is a collaborative process between the authorities and relevant victim support organisations.

161. Further, GRETA is concerned about the application of the Dublin Regulation to presumed victims of THB, which runs contrary to the obligation to assist and protect such victims. GRETA recalls that Article 10, paragraph 2, of the Convention stipulates that if the competent authorities have reasonable grounds to believe that a person has been a victim of trafficking in human beings, that person shall not be removed from its territory until the identification process has been completed by the competent authorities. GRETA stresses the state's obligation to identify victims of trafficking amongst asylum seekers who are subject to the Dublin Regulation procedure, in order to avoid any risk of reprisals from traffickers or re-trafficking and to ensure that the State's obligations to provide a recovery and reflection period and assistance to victims, in accordance with Articles 12 and 13 of the Convention, are fulfilled. In this context, GRETA notes that Article 17.1 of the Dublin Regulation III permits States to unilaterally take responsibility for the determination of an asylum claim, even where the objective responsibility criteria allow for a request to be submitted to another Member State of the EU.

⁷⁸ 2017 Status Report on THB in the Czech Republic, p. 13.

⁷⁹ *Ibid.*, p. 15.

162. GRETA concludes that the current identification system of victims of THB risks leaving out those who are unable or unwilling to co-operate with the authorities in a criminal investigation into a human trafficking offence.

163. Consequently, **GRETA urges the Czech authorities to take steps to improve the identification of victims of THB, and in particular to:**

- **put in place a formalised victim identification procedure which defines the roles and responsibilities of all relevant stakeholders, promotes a multi-agency approach by involving specialised NGOs, labour inspectors, social workers, child protection specialists and health-care staff, and includes indicators and guidance for identifying victims of different forms of exploitation;**
- **disconnect the identification of victims of human trafficking from the initiation of criminal proceedings for THB;**
- **develop multi-agency training on the identification of victims and ensure that there is a regular exchange of information;**
- **take steps to strengthen the proactive identification of victims of THB for the purpose of labour exploitation, by reinforcing the capacity and training of labour inspectors and involving trade unions and other relevant actors;**
- **separate immigration enforcement functions from labour inspectorate roles and ensure that labour inspectors prioritise the detection of persons working in irregular situations who are vulnerable to THB;**
- **pay increased attention to the proactive detection of victims of trafficking amongst asylum seekers and persons placed in administrative detention pending removal, allowing sufficient time to gather necessary information and taking into account their traumatic experience. In this context, training, guidance and indications on the identification of victims of THB and their rights should be provided to staff working in asylum and immigration detention centres, in co-operation with civil society and lawyers;**
- **ensure that the identification of child victims of THB takes into account the special circumstances and needs of child victims, involves child specialists and ensures that the best interests of the child are a primary consideration in all proceedings relating to child victims of THB and children at risk;**
- **strengthen the identification of victims of THB among unaccompanied children and take steps to address the problem of unaccompanied children disappearing by providing suitable safe accommodation and adequately trained supervisors or foster parents;**
- **reconsider the application of the Dublin Procedure to presumed victims of THB;**
- **strengthen efforts to identify victims of THB for the purpose of criminal activities.**

b. Assistance to victims

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

165. In the Czech Republic, the rights of victims of crimes are provided for in Act no. 45/2013 Coll. on Victims of Crimes. This Act grants victims of human trafficking the status of particularly vulnerable victims who have special rights, in recognition of the fact that they are at risk of secondary victimisation or intimidation by perpetrators. Investigating and prosecuting bodies must inform such victims of their rights at the first point of contact and treat them politely and kindly, offering to help them at any time (Section 3 of the Act). The Act also grants particularly vulnerable victims the right to free legal aid (Section 5) as well as the rights to be protected from contacts with the perpetrator and while giving testimony (for more information, see paragraph 243).

166. In practical terms, assistance to adult victims of THB is provided within the Programme for Support and Protection of Victims of Trafficking in Human Beings, which is funded by the Ministry of the Interior and delivered by the NGO La Strada under a public procurement contract. La Strada is the main provider, but other NGOs provide services as subcontractors. In addition, the victim support network of the Probation and Mediation Service (PMS) is entitled to assist victims of trafficking, but there is no information available on the number of such victims who have benefited from the services of the PMS.

167. The previously mentioned Instruction of the Minister of the Interior, dated 15 February 2010, and Methodological Guidelines of the functioning of the Programme on Support and Protection of Victims of Trafficking in Human Beings and its institutional back-up, issued on behalf of the First Deputy Minister of the Interior on 7 June 2010, regulate the functioning of the Programme.⁸⁰ According to the Guidelines, the goal of the Programme is to: 1) provide victims of human trafficking with support and protect their human rights and dignity; 2) motivate victims to co-operate with law enforcement agencies; and 3) mediate the return of victims to their countries of origin as part of the Voluntary Return Programme (implemented by IOM). It is stated that victims who can benefit from the Programme are foreigners who make a reasoned declaration that they have become victims of trafficking in the Czech Republic, as well as Czech citizens who make a reasoned declaration that they have been victims of THB in the Czech Republic or abroad.

⁸⁰ These documents are available, in Czech, at: <https://www.mvcr.cz/clanek/obchod-s-lidmi-dokumenty-924305.aspx>

168. The Methodological Guidelines specify the procedure for the victim's admission to, and discharge from, the Programme. If a victim is identified by the Police, it is the duty of police officers to inform him/her of the possibility to enter the Programme, and if the person gives his/her written consent, to send a written proposal for the victim's inclusion in the Programme to the Crime Prevention Department. If a presumed victim is identified by an NGO, the latter informs the victim of its mandate and offers him/her the possibility of entering the Programme, while acquainting him/her with the rights and obligations arising therefrom. The NGO must inform without undue delay the Crime Prevention Department of the victim's expressed wish to enter the Programme. The conditions for inclusion in the Programme are cessation of contact with the suspected offender and expression of interest in participating in the Programme through signing the entry declaration. The decision to admit a person to the Programme is taken by the Crime Prevention Department, save in complex cases, where decisions are taken by the First Deputy Minister of the Interior. So far, no cases have been recorded where the decision had to be taken by the First Deputy Minister, but this option is included in the Methodological Guidelines for cases where it would not be possible to decide without doubt that a person is a victim of trafficking in human beings. The police can end the victim's participation in the Programme if: 1) the victim chooses to return voluntarily to his/her country of origin; 2) the victim co-operates with the suspected offender; 3) the victim seriously violates the laws of the Czech Republic; 4) it is not confirmed that the person is a victim of trafficking in human beings; 5) there is a final decision in the criminal proceedings; 6) the victim has committed an intentional crime; or 7) the victim has knowingly provided law enforcement authorities with false information.

169. According to the Methodological Guidelines, the tasks of the Crime Prevention Department include keeping records of the victims included in the Programme (with their consent), ensuring the protection of personal data, analysis of the effectiveness of the Programme's operation and making any necessary proposals for changes, and co-ordinating the work with victims within the Programme.

170. The tasks of NGOs within the Programme include putting the victim in contact with the police as soon as the victim decides to co-operate with law enforcement authorities, providing victims included in the Programme with the services referred to in Article 5 of the Guidelines, and informing the Crime Prevention Department and the police of all relevant facts about victims included in the Programme.

171. The Ministry of the Interior allocates approximately 64,490 euros per year to fund the assistance and protection measures within the Programme. For 60 days presumed victims can receive assistance which is not dependent on their co-operation with the investigation or criminal proceedings (corresponding to a recovery and reflection period, see paragraph 189). Victims can subsequently continue to receive assistance only if they are recognised as victims of THB by the police or agree to co-operate in the investigation or criminal proceedings.

172. The Programme covers a range of services which are specified in the contract signed with La Strada, including social assistance, psychological and social counselling, psychotherapeutic services, translation and interpretation services, health care, requalification courses, safe accommodation and legal representation (by lawyers who are contracted by La Strada). The contract contains funding limits for the different services (e.g. CZK 149 per night of accommodation).

173. The amount of funding provided for health care under the Programme is sufficient to cover only emergency and basic health care. This poses problems in cases where there is need for more complex, long-term and costly health-care services, which is why La Strada Czech Republic is trying to include victims of THB in the public health insurance scheme and/or to have the procurement contract revised.

174. According to information provided by La Strada Czech Republic, in 2018, 37 persons (24 women and 13 men; 23 foreign⁸¹ and 14 Czech citizens⁸²) received assistance through the Programme. In 2017, the number of presumed victims who entered the Programme was 24 (15 foreign⁸³ and nine Czech citizens; 17 victims of labour exploitation and seven of sexual exploitation; 12 men and 12 women), in 2016 – 14 (12 foreign⁸⁴ and two Czech citizens), and in 2015 – four (two Czech citizens, one Slovak and one Ukrainian citizen).

175. La Strada runs two shelters: one for women, with seven places, and another for men, with five places. Their addresses are secret. Victims can stay up to one year at the shelters, and if subsequently there is need for protected housing, La Strada looks for other solutions.

176. GRETA visited a shelter for victims of trafficking run by the NGO Diakonie. Located in a large house in a residential area, the shelter had 13 places and was accommodating two men, presumed victims of trafficking for the purpose of labour exploitation. In 2018, the shelter had accommodated 36 presumed victims of labour exploitation, both women and men, primarily originating from Bulgaria and Romania, as well as the Baltic countries and Ukraine. The average length of stay was said to be 27 days. Staff included social workers speaking Bulgarian, Russian and Ukrainian. Information and contact details of relevant bodies were posted around the shelter in four languages (Bulgarian, Czech, Romanian and English). Staff provide advice on labour law and assist clients of the shelter in finding jobs. There is also access to e-learning courses. The work of Diakonie is funded through grants from the Ministry of Labour and Social Affairs and donations.

177. Further, GRETA visited a shelter for women victims of violence and human trafficking, run under the Project Magdala of Caritas of the Archdiocese of Prague. At the time of the visit, the shelter was accommodating 20 women, some with their children. The majority of the residents were Czech, but the shelter had also accommodated Bulgarian, Romanian and Nigerian women. The maximum length of stay is one year. Children attend local schools. The shelter employs 14 staff, of whom nine work full time, including a psychologist, a psychotherapist and a lawyer; there is staff presence on a 24-hour basis.

178. The GRETA delegation also visited the Caritas-run Centre "PRO" in Blansko, which has a crisis shelter for victims of violence and carries out outreach work. The shelter has a capacity of 24 places. It is registered as a service provider by the Ministry of Labour and Social Affairs, which provides the main funding for its activities. Victims can be referred to the centre by the offices for the legal and social protection of children. In the past, the centre used to work with the Project Magdala and was assisting women exploited in prostitution.

⁸¹ The foreign victims included citizens of the Philippines, Nigeria, Romania, the Slovak Republic, Pakistan, Sierra Leone.

⁸² The Czech citizens were trafficked to the UK, Ireland, Italy and Finland.

⁸³ Five from the Republic of Moldova, five from Ukraine, two from the Philippines, and one each from Nigeria, Slovakia and Vietnam.

⁸⁴ Seven from Romania, two from Slovakia, two from Ukraine, and one from Bulgaria.

179. There are no specialised centres designed to provide assistance to child victims of trafficking. Such children are treated as vulnerable children, under the provisions of Act no. 359/1999 Coll. on Child Care. There are 230 local Offices for the Legal and Social Protection of Children ("OSPOD") which are responsible for the protection of vulnerable children. These offices are funded by the Ministry of Labour and Social Protection. Unaccompanied children are placed in the Facility for Foreign Children (see paragraph 159). No centrally organised training on THB issues is provided to OSPOD staff, but they must pass a professional competence test which requires being acquainted with international legal provisions on THB, such as the Second Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. Furthermore, OSPOD staff are obliged to undertake follow-up training for social workers annually. There are several obligatory specialisations, including the issue of children who have been maltreated, misused or neglected in a serious manner, which covers child victims of THB.

180. The Ministry of Justice allocates funds each year for grants intended to enable the provision of legal information to victims of crime. Accredited organisations include La Strada Czech Republic, which received grants of CZK 602,484 in 2017 and CZK 610,623 in 2018 (in the region of 23,000 euros per year) for the provision of legal information to victims of THB, including through its SOS and information helpline. Quantity and quality assessment of the services is built into the grant contract.

181. In addition to the funding provided by the Ministry of the Interior for the Programme for Support and Protection of Victims of THB, the Ministry of Labour and Social Affairs offers grants for agencies focusing on providing social services, to the value of 333 million euros. Victims of THB can benefit from a number of these social services. In 2017, La Strada Czech Republic received a grant of CZK 6,786,000 (approximately 264,857 euros) for the provision of social services, social counselling, emergency assistance, shelters and helpline to victims of THB.

182. The Probation and Mediation Service (PMS) provides victims of crime with legal information and psychological support, and offers restorative programmes, such as mediation, as well as various other support related to victims' family, social and economic situation. There are 74 centres of the PMS. A budget of approximately 24,000 euros is allocated for services for all victims. According to Act no. 59/2017 Coll. on the Use of Funds from Proprietary Criminal Sanctions Imposed in Criminal Proceedings, which came into force on 1 January 2018, 2% of fines imposed as punishments for crimes are transferred to a PMS bank account at the end of each year in order to be used for financing its activities. The PMS provides assistance to victims (pursuant to Section 4 of the Victims of Crime Act) regardless of the stage of criminal proceedings as long as the purpose so requires (i.e. both before and after the criminal proceedings). In many cases, assistance is provided prior to the filing of a criminal complaint, or even in cases where the case is referred for an offence. Support and assistance from the Probation and Mediation Service is thus not tied to ongoing criminal proceedings.

183. The Czech authorities have stated that foreign citizens who have residence and work permits may on request be included in the register of job-seeking persons kept by the Labour Office, which acts as an intermediary in finding suitable jobs and may provide retraining.

184. GRETA welcomes that existence of the Programme for Support and Protection of Victims of THB and the availability of shelter accommodation for both women and men who are presumed to be victims of THB. The availability of state funding for the running of the Programme as well as other projects supporting victims of THB is another positive feature. However, the continuity and sustainability of this funding should be ensured.

185. GRETA is concerned that, under the Programme for Support and Protection of Victims of THB, the availability of assistance after the expiry of the 60 days of reflection is linked to the victim's co-operation with law enforcement authorities and the outcome of the investigation. **GRETA urges the Czech authorities not to link the assistance provided to victims of THB to the carrying out of criminal investigations into THB.**

186. **Further, GRETA considers that the Czech authorities should take additional measures to ensure adequate assistance to victims of trafficking, and in particular to:**

- **guarantee access to public health care for victims of trafficking;**
- **facilitate the social inclusion of victims of trafficking into society and prevent re-trafficking, by providing them with long-term assistance, including vocational training and access to the labour market;**
- **provide specialised assistance for child victims of trafficking which takes into account their specific circumstances and the best interests of the child;**
- **ensure the continuity of funding for services delivered by specialised NGOs;**
- **ensure that the training provided to staff of the local Offices for the Legal and Social Protection of Children includes the Council of Europe Convention on Action against Trafficking in Human Beings.**

c. Recovery and reflection period

187. As victims of trafficking are extremely vulnerable after the trauma they have experienced, Article 13 of the Convention introduces the obligation for Parties to provide in their internal law for a recovery and reflection period of at least 30 days. The recovery and reflection period, in itself, is not conditional on co-operation with the investigative or prosecution authorities and should not be confused with the issue of a residence permit under Article 14(1) of the Convention. Pursuant to the Convention, the recovery and reflection period should be granted when there are reasonable grounds to believe that the person concerned is a victim of trafficking, i.e. before the identification procedure has been completed. During this period, Parties must authorise the person concerned to stay on their territory and expulsion orders cannot be enforced.

188. Pursuant to Section 42e, paragraph 3, of the Act No. 326/1999 Coll. on the Stay of Foreigners on the Territory of the Czech Republic, entitled "temporary residence permit for the purpose of protection", a foreign national who is likely to be a victim of human trafficking is granted one month to decide whether to co-operate with the law enforcement authorities in criminal proceedings. This period may be terminated if the foreign national is found out not be a victim of trafficking, or if it is necessary for the protection of public order or national security, or the person concerned requests the cancellation of the granted period. During this one-month period, foreign nationals cannot be removed from the Czech Republic. A procedure for granting international protection may commence during this period. The period does not affect the procedure for the expulsion of a foreigner or the procedure for his/her handover in accordance with a treaty obligation of the Czech Republic.

189. In parallel, all presumed victims of THB who enter the Programme for Support and Protection of Victims of THB are granted a 60-day reflection period in order to decide whether they wish to co-operate with law enforcement agencies. The Programme is intended for victims of trafficking over 18 years of age, including EU citizens and third-country nationals trafficked on the territory of the Czech Republic, and Czech citizens trafficked on the territory of the Czech Republic and in special cases also abroad. It is not necessary to co-operate with the law enforcement authorities for the duration of the reflection period. During this period, victims are provided with accommodation, food, as well as legal, social, health and interpreting services. Victims who participate in the Programme are issued with departure orders of up to 60 days. The reflection period may be extended by a maximum of 30 days by the First Deputy Minister of the Interior in the case of a victim with serious health issues on the basis of submitted medical reports.

190. The Czech authorities have specified that while the one-month period provided for under the Act of the Stay of Foreigners on the Territory of the Czech Republic applies to foreign nationals and is intended to legalise their stay, the 60-day reflection period in the Programme for Support and Protection of Victims of THB is also intended for victims who do not need to legalise their stay or can legalise it otherwise. If, after the 60-day reflection period a foreign victim decides not to co-operate with law enforcement agencies, he/she is offered to return to the country of origin under the voluntary return programme or is subject to administrative expulsion.

191. According to information provided by the Czech authorities, the number of persons granted a recovery and reflection period was four in 2015 (all women), 14 in 2016 (six women and eight men), 24 in 2017 (12 women and 12 men), and 17 in 2018. These were effectively all the persons who were included in the Programme for the Support and Protection of Victims of Trafficking in Human Beings in the respective years.

192. GRETA stresses the importance of the recovery and reflection period for the recovery of victims and their effective access to the ensuing rights; as such, it should be granted to any presumed or identified victim of trafficking in human beings. GRETA was informed that only presumed victims who enter the Programme for Support and Protection of Victims of THB are effectively benefiting from the reflection period.

193. **GRETA urges the Czech authorities to ensure that the recovery and reflection period is applied to all presumed foreign victims of THB, regardless of whether they agree to be included in the Programme for Support and Protection of Victims of THB, including those to whom the Dublin Regulation is applicable.**

d. Residence permits

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

195. According to Section 42e, paragraph 2, of the Act No. 326/1999 Coll. on the Stay of Foreigners on the Territory of the Czech Republic, a foreign citizen who is likely to be a victim of THB can apply for a long-term residence permit for the purposes of protection in the Czech Republic. The permit is issued by the Ministry of the Interior at the request of the foreign citizen and on the condition that he/she co-operates with the law enforcement authorities in the criminal proceedings concerning the suspected offence and does not collaborate with the suspected perpetrator of the offence. The law enforcement officers should inform the foreign citizen without any delay in a language in which he/she understands of the right to apply for a long-term residence permit for the purposes of protection on the territory of the Czech Republic, as well as the conditions of such a residence.

196. In cases where a child victim of THB is identified, the court appoints a guardian in a preliminary hearing (a person or an institution). Such a child has a legal right to reside in the Czech Republic. In most of the cases, the right to reside is valid until the age of 18. Afterwards, the person should apply for a residence permit.

197. According to information provided by the Czech authorities, two victims of THB were granted residence permits in 2018, two in 2017, and none in 2016 and 2015.

198. Regarding the possibility of victims of THB being granted international protection in the Czech Republic on the grounds of having been trafficked, GRETA was informed that there had been at least one case in which a Nigerian woman was granted international protection because of having been trafficked, on the basis of "membership in a particular social group" (see paragraph 156).

199. GRETA notes that the legal provision for granting a residence permit to victims of THB in the Czech Republic, which links the permit to criminal or civil proceedings, in practice undermines the unconditional nature of assistance to victims. There are situations in which victims might be afraid to co-operate in the investigation because of threats from the traffickers. Granting a residence permit on account of the personal situation of the victim takes in a range of situations, such as the victim's safety, state of health and family situation, and tallies with the human rights-based approach to combating THB. **GRETA invites the Czech authorities to consider granting temporary residence permits to victims of THB on the basis of their personal situation, in addition to the residence permit on the basis of the victim's co-operation in the investigation or criminal proceedings.**

200. Given that it is extremely rare for victims of trafficking to receive residence permits, **GRETA considers that the Czech authorities should review the application of the system for granting residence permits to victims of trafficking with a view to ensuring that the victim-centred approach which underpins the Convention is fully applied. The authorities should make further efforts to ensure that victims of trafficking can fully benefit in practice from the right to obtain a renewable residence permit, without prejudice to the right to seek and enjoy asylum. In this context, GRETA refers to the UNHCR 2006 Guidelines on the application of the Convention relating to the Status of Refugees and its additional protocol to victims of trafficking.**⁸⁵

e. Compensation and legal redress

201. Article 15 of the Convention establishes the obligation for Parties to provide in their internal law for the right of victims of trafficking to legal assistance and free legal aid. Parties must also provide for the right of victims of trafficking to compensation from the perpetrators as well as adopt legislative or other measures to guarantee compensation for victims from the State. A human rights-based approach to action against THB entails the effective prosecution of traffickers, putting the emphasis on the right to effective remedy for the victim. Further, Article 15(1) of the Convention establishes that victims of trafficking must have access to information on relevant judicial and administrative proceedings in a language which they can understand.

202. The Criminal Procedure Code (CPC) grants victims ("injured party") the right to be represented during the criminal procedure by a proxy. Following an amendment of the CPC by Act No. 56/2017 Coll., particularly vulnerable victims are now granted legal aid free of charge, without the need to prove the means, pursuant to Section 51a, paragraph 2, of the CPC.

⁸⁵ [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 and persons at risk of being trafficked, HCR/GIP/06/07, 7 April 2006.](#)

203. Legal aid is provided to victims of trafficking by lawyers engaged and paid for by NGOs, such as La Strada Czech Republic (see paragraph 172), as well as by the PMS (see paragraph 182).

204. Generally, a victim may claim compensation for damage from the offender by means of civil proceedings. A victim may also join the claim for compensation for damage in the criminal proceedings against the offender (the so-called 'adhesion proceedings').

205. According to NGOs providing legal aid to victims of THB, victims do not have effective access to compensation. In some 90% of compensation claims made in criminal proceedings, courts reportedly referred the claimants to civil proceedings, usually stating that there was not enough evidence to calculate the amount of compensation. The lack of training and specialisation of judges to deal with THB cases was highlighted as a problem in this respect. Victims do not usually pursue compensation claims through civil proceedings because the burden of proof is on the victim and the proceedings take a long time, during which many foreign victims leave the country.

206. GRETA was informed that there had been some successful compensation claims for non-material damages in cases of THB for sexual exploitation, but no successful claims in cases of THB for labour exploitation.

207. In accordance with the Act No. 45/2013 Coll. on Victims of Crime, financial assistance may be paid to victims who have incurred a statutory minimum damage to health as a result of a crime, victims of sexual crimes against human dignity, maltreated children and survivors (from a group defined by law) of those who have died as a result of a crime. This assistance is most often provided in the amounts ranging from CZK 10,000 (approximately 380 euros) to CZK 200,000 (approximately 7,700 euros) and is calculated either as a statutory flat rate or corresponds to the amount of proven lost earnings and costs of treatment or, where appropriate, the costs of specialised therapy used to alleviate the non-pecuniary harm suffered. The Ministry of Justice decides on the applications for the payment of financial assistance which must be submitted within two years from the date when the victim learned of the damage caused by the crime, and no later than five years from the date of the crime. NGOs assisting victims often provide help with requests for financial assistance. In order to apply for financial assistance, a victim must become a party to criminal proceedings against the offender. A medical certificate is required to prove the level of damage to health. Financial assistance is granted only to Czech citizens, regardless of whether the crime was committed in the Czech Republic or abroad. Third-country nationals can receive it only on the basis of bilateral agreements. GRETA stresses that all victims of trafficking identified in the Czech Republic should be eligible for financial assistance, regardless of nationality, in accordance with the non-discrimination principle in Article 3 of the Convention.

208. No victims of THB have so far received financial assistance under the Victims of Crime Act. In 2018, financial assistance was granted to 89 victims of other crimes, to the amount of CZK 2.6 million.

209. GRETA was informed that in 2017, Act No. 59/2017 Coll. was passed, enabling the use of confiscated criminal assets to compensate victims of crimes. This Act establishes a mechanism which enables victims to whom a court has granted compensation for damages by the perpetrator to request the state to compensate such damage by disbursing the money collected through a sanction imposed on a perpetrator and executed by the state. In practice, the money collected through sanctions is kept in a special account of the Ministry of Justice. If a victim files a compensation claim and proves that the court has approved a claim for compensation against a perpetrator, the state will accommodate the claim up to the amount of the compensation imposed and the remaining money from the sanction is transferred to the state budget, after deducting 2% for the Probation and Mediation Service which provides support to crime victims. GRETA welcomes the introduction of the system of advance payment of compensation by the state to victims of crime and trusts that it will be used to compensate victims of trafficking.

210. **GRETA urges the Czech authorities to adopt measures to facilitate access to compensation for victims of trafficking, and in particular to:**

- **review the criminal and civil procedures regarding compensation, with a view to improving their effectiveness;**
- **ensure that victims of trafficking are systematically informed, in a language that they can understand, of the right to seek compensation in criminal and civil proceedings, and the procedures to be followed;**
- **enable victims of trafficking to exercise their right to compensation, by building the capacity of legal practitioners to support victims to claim compensation;**
- **include victim compensation in training programmes for law enforcement officials, prosecutors and judges;**
- **ensure that all persons trafficked in, to or from the Czech Republic, regardless of nationality and residential status, are eligible for financial assistance from the State.**

211. **GRETA also invites the Czech authorities to collect statistical information concerning compensation awarded by courts to victims of THB in criminal and civil proceedings.**

f. Repatriation and return of victims

212. Article 16 of the Convention requires Parties to establish repatriation programmes which aim at avoiding re-victimisation and involve relevant national or international institutions and NGOs, as well as to make efforts to favour the reintegration of victims into the society of the State of return. Parties must also make available to victims of trafficking contact information or structures that can assist them in the country of return, such as law enforcement offices, NGOs, legal professionals and social welfare agencies. The return of victims of trafficking must preferably be voluntary and needs to be carried out with due regard for the rights, safety and dignity of the person and for the status of any legal proceedings related to the fact that the person is a victim of THB. Furthermore, a victim may not be returned where such action would be in contravention of the State's obligation of international protection, recognised in Article 40(4) of the Convention.

213. The Programme for Support and Protection of Victims of THB includes an assisted voluntary return programme, which is run by IOM. This programme is intended both for foreign and Czech citizens. As part of the programme, IOM provides counselling, assistance with issuing personal and travel documents, and reintegration assistance. A ticket to the country of origin and direct help at departure and arrival is also provided.

214. In 2018, four victims of THB (two from the Czech Republic, one from Romania and one from Sierra Leone) used the voluntary assisted return programme. In 2017, the number of victims of THB who benefited from the programme to return to other countries was five (two women and three men), in 2016 one woman returned to another country, and in 2015 one Czech citizen was repatriated.

215. **GRETA considers that the Czech authorities should continue taking steps to:**

- **ensure that the return of victims of THB is conducted with due regard for the rights, safety and dignity of the victim, is preferably voluntary and complies with the obligation of *non-refoulement*. This includes informing victims about existing support programmes, and protecting them from re-victimisation and re-trafficking;**
- **ensure the best interests of the child are effectively respected, protected and fulfilled, *inter alia*, through an assessment of risks and safety carried out, prior to any removal measure, by specialised bodies in co-operation with the competent contacts in the country of origin, especially for unaccompanied children;**
- **develop co-operation with countries of origin of victims with a view to ensuring that risks are correctly assessed, and that trafficking victims can return in safety and effectively reintegrate.**

4. Implementation by the Czech Republic of measures concerning substantive criminal law, investigation, prosecution and procedural law

a. Substantive criminal law

216. Pursuant to Article 18 of the Convention, Parties have the obligation to establish THB as a criminal offence when committed intentionally. Further, the Convention requires Parties to consider taking measures to criminalise the use of services which are the object of exploitation, with the knowledge that the person is a victim of THB (Article 19). In addition, forging travel or identity documents, removing, concealing or destroying them, as well as procuring or providing them, must also be established as criminal offences, when committed intentionally and for the purpose of enabling THB (Article 20).

217. As noted in paragraph 51, Section 168 of the CC, which criminalises trafficking in human beings, envisages a penalty of up to 10 years for the basis offence, up to 18 years for the most aggravated criminal offence, and confiscation of assets. Other criminal sanctions may be imposed besides the aforementioned sanctions in line with the Sections 52 and 53⁸⁶ of the CC.

⁸⁶ Section 53 of the CC - Imposing Multiple Punishments Individually and in Parallel: "(1) If the Criminal Code stipulates several punishments for a criminal act, each of these penalties may be imposed separately, or more punishments may be imposed concurrently. Besides a punishment stipulated by the Criminal Code for a criminal offense, other punishments referred to in Section 52 may also be imposed. However, house confinement may not be imposed in parallel to imprisonment and community service, community service in parallel to imprisonment, pecuniary penalty in parallel to confiscation of assets and prohibition of stay in parallel to banishment. (2) House confinement, community service, pecuniary penalty, ban from sport, cultural and other social events, banishment and prohibition of stay may be also imposed individually, even if the Criminal Code does not stipulate such a punishment for a particular criminal offence" (unofficial translation).

218. Section 168 of the CC provides for the following aggravating circumstances envisaged in Article 24 of the Convention: the offence was committed in the framework of an organised group, and the offence exposed a person to a risk of grievous bodily harm or death. Additional aggravating circumstances not mentioned in Article 24 of the Convention are committing the offence with the intention to gain a substantial or significant profit for himself/herself or for another person, and committing the offence with the intention to use another person for prostitution. Committing the offence against a child carries the same penalty as committing the offence against an adult and therefore trafficking in children is not considered an aggravating circumstance. According to the Czech authorities, trafficking in children as defined in Section 168, paragraph 1, of the CC does not require the use of means, and therefore the definition of the crime of trafficking in children is stricter. The commission of a criminal offence by an official in the performance of her/his duties is not mentioned as an aggravating circumstance in Section 168 of the CC, but is included among the general aggravating circumstances which pertain to any criminal offence, in Section 42 of the CC.

219. GRETA urges the Czech authorities to ensure that trafficking in children is regarded as an aggravating circumstance in the determination of the penalty for trafficking in human beings.

220. Czech legislation does not establish a separate offence of retaining, removing, concealing, damaging or destroying a travel or identity document of another person committed intentionally and for the purpose of enabling THB. According to the authorities, such conduct would be criminally punishable, being the preparation of a criminal offence of trafficking in human beings in line with Section 168, paragraph 6, Section 20 ("preparation of a criminal act") and Section 14, paragraph 3, of the CC.

221. As noted in paragraph 129, the use of services of a victim of THB, with the knowledge that that person is a victim, is not established as a separate criminal offence. The Czech authorities have stated that pursuant to Article 168 of the CC, criminally punishable is not only a person who committed THB, but also a person profiting from such conduct. Further, they have argued that if a person using such services knows that the person providing the services is a victim of THB, meaning that the person using such services has credibly learned that a criminal offence of THB has been committed, such a person is obliged to report the commission of the offence to a public prosecutor or a police authority, unless such reporting would expose the reporting person or someone closely associated with them to risk of death, bodily harm, other serious detriment or criminal prosecution, otherwise he/she commits a criminal offence of non-reporting of criminal offence according to Section 368 of the CC ("non-reporting of a criminal offence"), which specifically refers to THB. The reporting duty does not apply to lawyers who learn about the commission of a criminal act during the performance of their legal duties towards their clients and to clergymen who receive such information during a confession. Further, the duty to report a THB offence does not apply to persons providing assistance to victims. The Czech authorities have also referred to Section 367 of the CC ("non-prevention of criminal offences") as being relevant in this respect.

222. GRETA invites the Czech authorities to consider introducing a legal provision criminalising the use of services which are the object of exploitation as referred to in Article 4 of the Convention, with the knowledge that the person is a victim of THB.

223. Legal persons may be held liable for trafficking in human beings, pursuant to Section 7 of Act No. 418/2011 Coll. on Criminal Liability of Legal Persons and Proceedings against Them. All legal persons may be held liable, with the exception of the State and local self-governing entities while exercising public authority. The criminal liability of legal persons is based on Section 8 of this Act, according to which a criminal act may be committed by a statutory body or member of the statutory body or other person in a leadership position within the legal entity, who is entitled to act on behalf of or for the legal entity, a person in a leadership position within the legal entity, who performs managerial or controlling activities, a person with a decisive authority on management of this legal entity, if his/her act was at least one of the conditions leading to a consequence establishing criminal liability of a legal entity, or an employee or a person with similar status while fulfilling his/her duties/tasks). Commission of a criminal act can be attributed to a legal entity, if committed by an action or inaction of the bodies or persons referred to previously. Section 15 of the Act No. 418/2011 Coll. provides for the following sentences which can be imposed: a) dissolution of the legal entity; b) confiscation of property; c) monetary penalty; d) confiscation of items; e) prohibition to perform certain activities; f) prohibition to perform public contracts or to participate in public tenders; g) prohibition to receive endowments (grants) and subsidies; h) publication of a judgement. According to information provided by the Czech authorities, in 2018, one prosecution for illicit employment of foreigners by a legal entity (pursuant to Section 342 of the CC) was discontinued, and the public prosecution filed two charges pursuant to Section 342 of the CC against a legal entity. **GRETA considers that the Czech authorities should examine the reasons why no legal entities have been prosecuted and punished for trafficking-related acts and, in the light of their findings, take measures to ensure that the criminal liability of legal entities can be acted upon in practice.**

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

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

225. Czech legislation does not contain a specific provision replicating Article 26 of the Convention. The Czech authorities have referred to Section 28 of the CC ("extreme necessity"),⁸⁷ stating that a victim of trafficking might be considered to be acting in extreme necessity, which is one of the conditions precluding the illegality of the act. Further, the authorities have referred to other general provisions of the CC, in particular Sections 46-48 which deal with waiving of punishment, which according to them could also be applied in respect of victims of THB.

226. GRETA notes that no guidance is available for law enforcement officials, prosecutors and judges concerning the application of the non-punishment provision in respect of victims of THB.

⁸⁷ Section 28 of the CC - Extreme necessity: "(1) An act otherwise criminal, by which a person repels an impending danger to an interest protected by this Code, will not be considered as a criminal offence. (2) Extreme necessity is not concerned if such danger could have been repelled otherwise under the given conditions, or if the consequences caused are evidently equally serious or even more serious than the imminent consequence, or if the person threatened by the consequence was obliged to bear it" (unofficial translation).

227. GRETA notes that the absence of a specific provision on the non-punishment of victims of trafficking entails a risk of treating them differently depending on the prosecutor in charge of the case. **GRETA urges the Czech authorities to take measures to ensure compliance with the provision on the non-punishment of victims of THB for their involvement in unlawful activities, to the extent that they were compelled to do so, in pursuance to Article 26 of the Convention. Such measures should include the adoption of a specific legal provision and/or the development of guidance for law enforcement officials and prosecutors on the scope of the non-punishment provision, including with regard to criminal offences.** 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.⁸⁸

c. Investigation, prosecution and procedural law

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

229. The Czech authorities have stated that, if a public prosecutor receives information concerning cases of human trafficking, he/she is *ex officio* obliged to provide relevant institutions with information and to secure relevant remedies. This information can be provided to the victim.

230. As noted in paragraph 30, the National Centre for Combating Organised Crime is responsible for the investigation of all cases of THB. It has seven trained police officers assigned to deal with THB and migrant smuggling at its headquarters as well as specialised officers in each regional division. Within the general criminal departments of the regional police directorates, there are also police officers trained to deal with THB cases.

231. Within the Supreme Public Prosecutor's Office there is a designated national correspondent for combating human trafficking, exploitation of women and children, illegal migration and employment. Furthermore, there are specialised public prosecutors dealing with THB and irregular migration cases at each regional Prosecutor's Office. In total, there are 10 prosecutors across the country with specialist expertise in THB. Prosecutors lead the pre-trial proceedings and can give instructions to the police to collect evidence, including through the authorisation of special investigation techniques.

232. Cases of THB are heard by regional courts as courts of first instance. There are no judges specialised in dealing with THB cases. In two cases, the Supreme Court has issued judgments in THB cases (concerning trafficking for the purpose of labour exploitation), following appeals by the defendants.⁸⁹

⁸⁸ <http://www.osce.org/secretariat/101002?download=true>

⁸⁹ For example, Supreme Court of the Czech Republic, 4 Tdo 366/2013 of 14 May 2013; Supreme Court, 7 Tdo 1261/2013-55 of 12 March 2014; Supreme Court, 7 Tdo 404/2019 of 24 April 2019, No. ECLI:CZ:NS:2019:7.TDO.404.2019.1.

233. GRETA was informed that police officers use special investigation techniques in THB cases to gather evidence, pursuant to Section 22 of the Police Act (“operational surveillance means”), in particular phone tapping, covert surveillance, video and photo recording, and use of informants and undercover agents. These special investigation techniques can be used by the police at their own discretion, without prior authorisation from a prosecutor or a judge, before the formal opening of criminal proceedings. Financial investigations are also reportedly carried out in all THB cases, but the freezing of assets takes place only after a person has been charged. Further, police specialists in cybercrime are used to search the internet (social networks) and seize data.

234. The number of detected THB offences was 13 in 2018, 16 in 2017, 22 in 2016 and 18 in 2015. The number of persons investigated and prosecuted under Section 168 of the CC was 15 in 2018, 24 in 2017 (of whom 18 were Czech citizens), 23 in 2016 (including 22 Czech citizens) and 12 in 2015 (including eight Czech citizens). The number of persons convicted under Section 168 of the CC was 16 in 2018 (including three with suspended sentences), nine in 2017 (including three with suspended sentences), eight in 2016 (including two with suspended sentences), and 19 in 2015 (including seven with suspended sentences).⁹⁰ The data is not disaggregated by form of exploitation, but the Czech authorities have stated that the majority of the convictions have been for THB for sexual exploitation. GRETA was informed that there had been a total of eight convictions for THB for the purpose of labour exploitation since 2010; the majority of the cases concerned the exploitation of Czech citizens in the United Kingdom (in car washes, bakeries, benefit fraud, vegetable and fruit vending).

235. As regards other offences which are relevant to THB, the number of persons prosecuted for pimping (Section 189 of the CC) was 42 in 2017, 35 in 2016 and 63 in 2015. Further, the number of persons prosecuted for unauthorised employment of foreigners (Section 342 of the CC) was 10 in 2017, two in 2016 and two in 2015.

236. According to prosecutors specialised in THB cases, the main obstacle to successful prosecutions is the reluctance of victims to testify and consider themselves as victims. Many victims prefer to leave the Czech Republic as soon as possible, which is why their testimonies taken during the preparatory proceedings are recorded in order to be heard at the trial (this method is also used to avoid secondary victimisation). Video conferencing is also used when the victim is abroad.

237. Reference has already been made in paragraph 46 to the “Tree Workers Case”, in which hundreds of migrant workers were brought to the Czech Republic through false promises and exploited in the Czech forestry industry in the period 2009-2010. Following constitutional complaints against the decisions of the police to suspend the investigation into suspected fraud, the Constitutional Court found that the police had acted unlawfully and annulled the decisions to end the criminal proceedings. GRETA was informed that following the Constitutional Court judgment in mid-December 2015, in April 2016 the public prosecutor of the High Public Prosecutor’s Office in Prague decided that the matter should be returned to the District Police Headquarters Prague 1. At the time of GRETA’s visit in March 2019, the investigation was said to be ongoing, under the responsibility of District Police Headquarters Prague I. **GRETA would like to be kept informed of developments in the “Tree Workers Case”.**

⁹⁰ 2017 Status Report on THB in the Czech Republic.

238. In 2018, the Ministry of the Interior issued a "Common position on the interpretation of terms related to labour exploitation", which was prepared in consultation with the Supreme Public Prosecutor's Office's national correspondent for combating human trafficking and the National Centre for Combating Organised Crime.⁹¹ It analyses the difficulties in interpreting the concept of "labour exploitation", which is not legally defined, but can be subsumed under "slavery", "servitude", "forced labour" and "other forms of exploitation", which are part of the offence of THB under Section 168 of the CC, as well as under "particularly exploitative working conditions", which is part of the offence of unjustified employment of foreigners under Section 342, paragraph 1, of the CC. The interpretative position recalls that, in 2014, the Supreme Court of the Czech Republic commented that "forced labour" in Section 168 of the CC is to be interpreted in accordance with the concept of forced labour within the meaning of Article 2 (1) of ILO Convention No. 29, stating that "this feature is fulfilled, for example, by the actions of the offender who transports foreign nationals to the Czech Republic and then confiscates their travel and personal documents, restricts their freedom of movement, does not pay them the appropriate wages, makes them work under threats ... and the persons concerned are in a vulnerable position because of the ignorance of the environment and language in a foreign country".⁹² The interpretative position refers to the evolving case-law of the European Court of Human Rights in relation to forced labour. An analysis is also made of Czech case-law related to labour exploitation under Section 168 of the CC.⁹³ It is noted that Section 342 of the CC is not primarily aimed at protecting human dignity or freedom, but at preventing illegal migration while protecting the labour market). Further, it is stressed that when considering cases, it is absolutely inadmissible to refer to lower incomes or labour standards in the country of origin. In an annexe to the interpretative position, there is a detailed list of indicators of human trafficking for labour exploitation. According to the Czech authorities, these indicators are being used in training. The "Common position" is available on the internal website of the Public Prosecutor's Office.

239. GRETA welcomes the attention given in the Czech Republic to improving the application of Section 168 of the CC in cases of labour exploitation and the guidelines provided in this respect.

240. **GRETA considers that the Czech authorities should continue to take steps to ensure that THB cases are investigated proactively, prosecuted successfully, and lead to effective, proportionate and dissuasive sanctions, including by:**

- **identifying gaps in the investigation and prosecution of cases of THB for different purposes of exploitation;**
- **providing law enforcement authorities with the necessary guidance and tools to detect and investigate THB cases for different purposes of exploitation;**
- **sensitising judges to the rights of victims of THB and developing further their specialised knowledge, experience and competence to deal with cases of THB and apply the provisions criminalising THB;**

⁹¹ Available, in Czech, at: <https://www.mvcr.cz/clanek/obchod-s-lidmi-dokumenty-924305.aspx>

⁹² Supreme Court of the Czech Republic, 7 Tdo 1261/2013.

⁹³ For example, the so-called "Debra" case (2013), in which five Czech victims were exploited in the UK, working in bakeries in 12 hours shifts; three defendants were sentenced to five, nine, and nine and a half years' imprisonment respectively. In the so-called "Spargel" case (2012), which involved 20 Romanian victims who were forced to work in a meat processing plant and the harvesting of asparagus in the Czech Republic without proper employment contracts, the defendants, Ukrainian citizens, were sentenced to five years' imprisonment. In the so-called "Raven" case (2015), more than 10 victims were recruited in Slovakia and transferred to the Czech Republic where they performed manual work related to the maintenance of a family house, and were used for committing pensions and consumer loans fraud. The defendants were sentenced to six and seven years' imprisonment, respectively.

- **systematically carrying out financial investigations into cases of THB in order to effectively locate, seize and confiscate criminal assets and enable compensation of the victims.**
- d. Protection of victims and witnesses

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

242. In the Czech Republic, the measures aimed at the protection of victims are contained in the Code of Criminal Procedure, the Victims of Crime Act, and Act No. 137/2001 Coll., on the special protection of a witness and other persons in connection with criminal proceedings which provide for the following special measures.

243. Section 14 of the Victims of Crime Act provides for a change of address, special witness protection, concealment of the identity and change of the appearance of a victim. Protection from secondary victimisation is provided for in Sections 17 to 22 of this Act, which provide for the prevention of contact of the victim by the offender, specify the manner in which interviews with victims should be carried out, the right to be accompanied by a trustee⁹⁴ during criminal proceedings, and the right to make a declaration on the impact of the crime on the victim's life. A stronger protection in a number of these provisions is provided to particularly vulnerable victims, which include victims of THB. Pursuant to Section 19, a victim can request to be interviewed in pre-trial proceedings by a person of the same sex, and a particularly vulnerable victim can also request an interpreter of the same or opposite gender. Pursuant to Section 20, a person with relevant training should conduct interviews with particularly vulnerable victims in pre-trial proceedings in rooms adapted or adjusted for this purpose. If the victim is a child, a person with the relevant training shall always conduct the interview with the exception of cases when the action cannot be delayed and it is not possible to find a trained person. The interview of a particularly vulnerable victim is carried out in such a way as to avoid the need for it to be repeated later. If a particularly vulnerable victim does not wish to have direct visual contact with the suspect, audio-visual technology is applied if technically possible, while taking steps to ensure that the right to an effective defence is not violated. Particularly vulnerable victims, including victims of THB, are entitled to the following rights pursuant to the Victims of Crime Act: the right to be protected from contacts with the perpetrator (Section 20, subsection 4), the right to be protected from imminent danger (Section 14), and the right to be protected during the giving of testimony (Section 20).

244. As regards the protection of the identity of a victim, Section 8a of the CPC prohibits the disclosure of information which would lead to the identification of a victim in the pre-trial proceedings as well as the disclosure of information not related to the criminal activity concerned also in the latter stage of the proceedings.

⁹⁴ Section 21 provides that the victim has the right for a trustee to accompany him/her during criminal proceedings. The trustee can be a natural person qualified to perform legal acts whom the victim chooses. The trustee provides the victim with necessary, mainly psychological, help. The trustee can also be the victim's proxy.

245. Further, Act No. 137/2001 Coll., on the special protection of a witness and other persons in connection with criminal proceedings provides for the following special measures: personal protection, relocation of the protected person, including members of his/her household, and assistance to the protected person for social inclusion in a new environment; protection and assistance.

246. The Czech authorities have indicated that face-to-face cross-examination of defendants and victims is not practiced in the Czech Republic. Pursuant to Section 17 of the Victims of Crime Act, the contact of the victim and his/her close relatives with a person the victim has indicated as the perpetrator, a suspect or a person against whom criminal proceedings are being conducted, has to be prevented. Particularly vulnerable victims must be kept in a separate waiting room from the perpetrators and their time of arrival at the hearing and entry to the building must be different. Further, pursuant to Section 104a, paragraph 5, of the CPC a person under 18 years of age may be confronted with another person only in exceptional cases, if it is necessary for clarification of the matter. A face-to-face cross-examination is not allowed when the victim is under 18 and the offence was of a sexual nature and against human dignity.

247. Legal and procedural guarantees ensuring the protection of child victims and witnesses are stipulated in Section 102 of the CPC. Child victims are considered particularly vulnerable in line with Section 2(4)(a) of the Victims of Crime Act. As such, they must be protected from secondary victimisation and interviewed in special rooms in the pre-trial proceedings. Such rooms exist at police departments in all regions of the Czech Republic, and the police have developed detailed internal regulations and guidelines on interviewing child victims. If it is necessary for the protection of the rights of child victims or witnesses, video-conference equipment may be used in the course of criminal proceedings, in line with Section 52a of the CPC. If a child is questioned as a witness pursuant to Section 102, paragraph 1, of the CPC, the questioning should be conducted in a special room, and audio and visual recording should be made for future use to avoid repeated questioning of the child.

248. GRETA welcomes the development of protection measures for victims of crime which, if effectively implemented, can safeguard the interests of victims and witnesses of human trafficking. **GRETA considers that the Czech authorities should make full use of the available measures to protect victims and witnesses of THB, including children, and to prevent intimidation during the investigation, as well as during and after court proceedings.** In this context, GRETA refers to the Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice.⁹⁵

⁹⁵ [Guidelines of the Committee of Ministers of the Council of Europe on child friendly justice](#) (Adopted by the Committee of Ministers on 17 November 2010 at the 1098th meeting of the Ministers' Deputies)

Concluding remarks

249. The Czech authorities have taken a series of measures to combat trafficking in human beings and support its victims, through the adoption of relevant legislation and national strategies, the setting up of co-ordinating and specialised structures, and the provision of training to relevant professionals. Civil society plays a crucial role in this respect and specialised NGOs have full membership in the Interdepartmental Co-ordination Group for Combating Trafficking in Human Beings.

250. While GRETA acknowledges the important steps taken by the Czech authorities so far, a number of challenges remain to be tackled through legislative, policy or practical measures in order to meet the requirements of the human rights-based approach outlined in paragraphs 42-45.

251. GRETA welcomes the existence of the Programme for Support and Protection of Victims of Human Trafficking, which is funded by the Ministry of the Interior and delivered by NGOs, and the availability of shelter accommodation for both women and men who are presumed to be victims of trafficking. However, the continuity and sustainability of this funding should be ensured.

252. Furthermore, GRETA calls on the Czech authorities to improve the identification of victims of trafficking and to ensure that identification and the provision of assistance to victims are not linked to the initiation of criminal proceedings. The authorities should in particular strengthen the proactive identification of victims of trafficking for the purpose of labour exploitation, as well as the identification of victims of trafficking among asylum seekers and persons placed in administrative detention.

253. Efforts should also be made to ensure that the recovery and reflection period is applied to all presumed foreign victims of trafficking, regardless of whether they agree to be included in the Programme for Support and Protection of Victims of Human Trafficking, and to make sure that victims of trafficking can fully benefit in practice from the right to obtain a renewable residence permit, without prejudice to the right to seek and enjoy asylum. Further, the authorities must ensure that victims of trafficking have effective access to compensation, regardless of their nationality or residence status.

254. In the area of prevention, the efforts to raise awareness of human trafficking must be combined with targeted social and economic measures for persons or groups vulnerable to human trafficking, in particular the Roma community and migrant workers, as well as measures to discourage demand for the services of trafficked persons.

255. Strengthening the effectiveness of investigations and prosecutions with a view to securing proportionate and dissuasive convictions for human trafficking offences for all types of exploitation is another area where further action is required. There have been few convictions for human trafficking for the purpose of labour exploitation and GRETA draws attention to the need to increase the number of cases prosecuted in this area.

256. All professionals who may come into contact with victims of human trafficking, including law enforcement officials, prosecutors, judges, labour inspectors, social workers, staff of reception centres for asylum seekers and migrants, lawyers, health-care staff and staff working with children, must be continuously informed and trained about the need to apply a human rights-based approach to action against human trafficking on the basis of the Convention and the case law of the European Court of Human Rights.

257. GRETA invites the Czech authorities to keep it informed on a regular basis of developments in the implementation of the Convention and looks forward to continuing the co-operation in achieving the purposes of the Convention.

Appendix I: List of GRETA's proposals

Definition of "trafficking in human beings"

1. GRETA considers that stating explicitly the irrelevance of the consent of a victim of trafficking to the intended exploitation could improve the implementation of the anti-trafficking provisions.

Comprehensive approach and co-ordination

2. GRETA considers that the Czech authorities should examine the possibility of designating as a National Rapporteur a separate organisational entity or another independent mechanism for monitoring the anti-trafficking activities of state institutions.

3. GRETA invites the Czech authorities to introduce a periodic independent evaluation of the national anti-trafficking strategy as a tool for assessing the impact of the activities and planning future policies and measures to combat THB, and to consider establishing an independent National Rapporteur or designating another existing independent mechanism for monitoring the anti-trafficking activities of State institutions (see Article 29, paragraph 4, of the Convention and paragraph 298 of the Explanatory Report).

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

- strengthen action to prevent and combat THB for the purpose of labour exploitation by involving labour inspectors, trade unions, employment agencies, businesses and civil society in a joint platform and improving the identification of, and assistance to, victims of THB for the purpose of labour exploitation;
- address the vulnerability to trafficking of persons or groups affected by unfavourable social and economic conditions, in particular the Roma community;
- review the regulatory systems concerning migrant domestic and home care workers and ensure that inspections can take place in private households with a view to preventing abuse of domestic workers and detecting cases of human trafficking;
- working 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 UN's Guiding Principles on Business and Human Rights and Recommendation CM/Rec(2016)3 on human rights and business.

Training of relevant professionals

5. GRETA considers that the Czech authorities should take further steps to provide periodic training on THB and the rights of victims to all relevant professionals (including police officers, immigration and asylum officials, prosecutors, judges, social workers, labour inspectors, tax inspectors, child protection authorities, consular officials, health-care professionals). The training should be mainstreamed into the regular training curriculum of relevant professionals, at all levels, involve multi-disciplinary expertise, and be implemented systematically across the country. Future training programmes should be designed with a view to improving the knowledge and skills of relevant professionals which enable them to identify victims of trafficking for all forms of exploitation and assist and protect them, to ensure effective access to compensation for victims, to enable effective investigations and to secure convictions of traffickers.

Data collection and research

6. For the purpose of preparing, monitoring and evaluating anti-trafficking policies, GRETA urges the Czech authorities to develop and maintain a comprehensive and coherent statistical system on trafficking in human beings, by compiling reliable statistical data on measures to protect and promote the rights of victims, as well as on the investigation, prosecution and adjudication of human trafficking cases. Statistics regarding victims should be collected from all main actors and allow disaggregation concerning sex, age, type of exploitation, country of origin and/or destination. This should be accompanied by all the necessary measures to respect the right of data subjects to personal data protection, including when NGOs working with victims of trafficking are asked to provide information for the national database.

7. GRETA considers that the Czech authorities should conduct and support further research on THB as an important source of information for the evaluation and planning of policy measures. Areas where research could be carried out include trafficking for the purpose of forced marriage and child trafficking, including live streaming of trafficking for the purpose of sexual exploitation of children.

International co-operation

8. GRETA welcomes the involvement of the Czech Republic in international co-operation in the area of combating THB and invites the Czech authorities to continue international co-operation on action against THB, including the investigation of transnational THB cases, and to explore further possibilities for co-operation with governmental and non-governmental actors in countries of origin, destination and transit, with a view to providing assistance to, and safe referral for, victims of trafficking and preventing THB.

Measures to raise awareness

9. GRETA welcomes the attention given to preventing THB through information and raising awareness, focusing on vulnerable groups, and invites the Czech authorities to continue their efforts. Greater attention should be paid to informing the public about the risks of recruitment through social media and the Internet. Future awareness-raising activities should be designed in the light of impact assessment of previous measures, focusing on the needs identified.

Measures to discourage demand

10. GRETA considers that the Czech authorities should adopt and strengthen legislative, administrative, educational, social, cultural or other measures to discourage demand for the services of trafficked persons, for all forms of exploitation, in partnership with civil society, trade unions and the media, including by:

- raising awareness of the important role of the media and advertising in tackling demand which leads to human trafficking;
- promoting awareness among businesses, strengthening corporate social responsibility and preventing trafficking in supply chains;
- implementing educational programmes at schools that stress the importance of gender equality and respect for the dignity and integrity of every human being and the consequences of gender-based discrimination.

Economic, social and other initiatives for groups vulnerable to THB

11. GRETA considers that the Czech authorities should continue strengthening prevention of THB through targeted social and economic empowerment measures for groups and persons vulnerable to THB, in particular the Roma community and migrant workers.

Border measures to prevent THB and measures to enable legal migration

12. GRETA invites the Czech authorities to continue making efforts to detect and prevent THB through border control measures, in particular by:

- strengthening the capacity of all competent law enforcement bodies to detect indicators of THB and ensure prompt and effective access to assistance and protection;
- providing information to foreign nationals arriving irregularly or seeking asylum, in a language that they can understand, about the risks of THB, their rights and the availability of legal assistance, counselling and other services. In this context, GRETA refers to the United Nations Office of the High Commissioner for Human Rights (OHCHR) 2014 Recommended Principles and Guidelines on Human Rights at International Borders and the OHCHR Report on the situation of migrants in transit (2016).

Identification of victims of trafficking in human beings

13. GRETA urges the Czech authorities to take steps to improve the identification of victims of THB, and in particular to:

- put in place a formalised victim identification procedure which defines the roles and responsibilities of all relevant stakeholders, promotes a multi-agency approach by involving specialised NGOs, labour inspectors, social workers, child protection specialists and health-care staff, and includes indicators and guidance for identifying victims of different forms of exploitation;
- disconnect the identification of victims of human trafficking from the initiation of criminal proceedings for THB;
- develop multi-agency training on the identification of victims and ensure that there is a regular exchange of information;
- take steps to strengthen the proactive identification of victims of THB for the purpose of labour exploitation, by reinforcing the capacity and training of labour inspectors and involving trade unions and other relevant actors;
- separate immigration enforcement functions from labour inspectorate roles and ensure that labour inspectors prioritise the detection of persons working in irregular situations who are vulnerable to THB;
- pay increased attention to the proactive detection of victims of trafficking amongst asylum seekers and persons placed in administrative detention pending removal, allowing sufficient time to gather necessary information and taking into account their traumatic experience. In this context, training, guidance and indications on the identification of victims of THB and their rights should be provided to staff working in asylum and immigration detention centres, in co-operation with civil society and lawyers;
- ensure that the identification of child victims of THB takes into account the special circumstances and needs of child victims, involves child specialists and ensures that the best interests of the child are a primary consideration in all proceedings relating to child victims of THB and children at risk;

- strengthen the identification of victims of THB among unaccompanied children and take steps to address the problem of unaccompanied children disappearing by providing suitable safe accommodation and adequately trained supervisors or foster parents;
- reconsider the application of the Dublin Procedure to presumed victims of THB;
- strengthen efforts to identify victims of THB for the purpose of criminal activities.

Assistance to victims

14. GRETA urges the Czech authorities not to link the assistance provided to victims of THB to the carrying out of criminal investigations into THB.

15. GRETA considers that the Czech authorities should take additional measures to ensure adequate assistance to victims of trafficking, and in particular to:

- guarantee access to public health care for victims of trafficking;
- facilitate the social inclusion of victims of trafficking into society and prevent re-trafficking, by providing them with long-term assistance, including vocational training and access to the labour market;
- provide specialised assistance for child victims of trafficking which takes into account their specific circumstances and the best interests of the child;
- ensure the continuity of funding for services delivered by specialised NGOs;
- ensure that the training provided to staff of the local Offices for the Legal and Social Protection of Children includes the Council of Europe Convention on Action against Trafficking in Human Beings.

Recovery and reflection period

16. GRETA urges the Czech authorities to ensure that the recovery and reflection period is applied to all presumed foreign victims of THB, regardless of whether they agree to be included in the Programme for Support and Protection of Victims of THB, including those to whom the Dublin Regulation is applicable.

Residence permits

17. GRETA invites the Czech authorities to consider granting temporary residence permits to victims of THB on the basis of their personal situation, in addition to the residence permit on the basis of the victim's co-operation in the investigation or criminal proceedings.

18. GRETA considers that the Czech authorities should review the application of the system for granting residence permits to victims of trafficking with a view to ensuring that the victim-centred approach which underpins the Convention is fully applied. The authorities should make further efforts to ensure that victims of trafficking can fully benefit in practice from the right to obtain a renewable residence permit, without prejudice to the right to seek and enjoy asylum. In this context, GRETA refers to the UNHCR 2006 Guidelines on the application of the Convention relating to the Status of Refugees and its additional protocol to victims of trafficking.

Compensation and legal redress

19. GRETA urges the Czech authorities to adopt measures to facilitate access to compensation for victims of trafficking, and in particular to:

- review the criminal and civil procedures regarding compensation, with a view to improving their effectiveness;
- ensure that victims of trafficking are systematically informed, in a language that they can understand, of the right to seek compensation in criminal and civil proceedings, and the procedures to be followed;
- enable victims of trafficking to exercise their right to compensation, by building the capacity of legal practitioners to support victims to claim compensation;
- include victim compensation in training programmes for law enforcement officials, prosecutors and judges;
- ensure that all persons trafficked in, to or from the Czech Republic, regardless of nationality and residential status, are eligible for financial assistance from the State.

20. GRETA invites the Czech authorities to collect statistical information concerning compensation awarded by courts to victims of THB in criminal and civil proceedings.

Repatriation and return of victims

21. GRETA considers that the Czech authorities should continue taking steps to:

- ensure that the return of victims of THB is conducted with due regard for the rights, safety and dignity of the victim, is preferably voluntary and complies with the obligation of *non-refoulement*. This includes informing victims about existing support programmes, and protecting them from re-victimisation and re-trafficking;
- ensure the best interests of the child are effectively respected, protected and fulfilled, *inter alia*, through an assessment of risks and safety carried out, prior to any removal measure, by specialised bodies in co-operation with the competent contacts in the country of origin, especially for unaccompanied children;
- develop co-operation with countries of origin of victims with a view to ensuring that risks are correctly assessed, and that trafficking victims can return in safety and effectively reintegrate.

Substantive criminal law

22. GRETA urges the Czech authorities to ensure that trafficking in children is regarded as an aggravating circumstance in the determination of the penalty for trafficking in human beings.

23. GRETA invites the Czech authorities to consider introducing a legal provision criminalising the use of services which are the object of exploitation as referred to in Article 4 of the Convention, with the knowledge that the person is a victim of THB.

24. GRETA considers that the Czech authorities should examine the reasons why no legal entities have been prosecuted and punished for trafficking-related acts and, in the light of their findings, take measures to ensure that the criminal liability of legal entities can be acted upon in practice.

Non-punishment of victims of trafficking in human beings

25. GRETA urges the Czech authorities to take measures to ensure compliance with the provision on the non-punishment of victims of THB for their involvement in unlawful activities, to the extent that they were compelled to do so, in pursuance to Article 26 of the Convention. Such measures should include the adoption of a specific legal provision and/or the development of guidance for law enforcement officials and prosecutors on the scope of the non-punishment provision, including with regard to criminal offences.

Investigation, prosecution and procedural law

26. GRETA considers that the Czech authorities should continue to take steps to ensure that THB cases are investigated proactively, prosecuted successfully, and lead to effective, proportionate and dissuasive sanctions, including by:

- identifying gaps in the investigation and prosecution of cases of THB for different purposes of exploitation;
- providing law enforcement authorities with the necessary guidance and tools to detect and investigate THB cases for different purposes of exploitation;
- sensitising judges to the rights of victims of THB and developing further their specialised knowledge, experience and competence to deal with cases of THB and apply the provisions criminalising THB;
- systematically carrying out financial investigations into cases of THB in order to effectively locate, seize and confiscate criminal assets and enable compensation of the victims.

Protection of victims and witnesses

27. GRETA considers that the Czech authorities should make full use of the available measures to protect victims and witnesses of THB, including children, and to prevent intimidation during the investigation, as well as during and after court proceedings.

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

Public bodies

- Ministry of the Interior
 - Crime Prevention Department
 - Police
 - National Centre for Combating Organised Crime
 - Foreign Police
 - International Co-operation
- Ministry of Justice
 - Probation and Mediation Service
 - Legislative Department
 - International Co-operation Department
 - Statistical Department
 - Compensation Department
 - Accreditation Department
 - Penal Policy Department
- Ministry of Foreign Affairs
- Ministry of Labour and Social Affairs
 - State Labour Inspection Office
 - Child Protection Department
- Ministry of Education, Youth and Sport
- Ministry of Health
- Ministry of Regional Development
- Judicial Academy
- State Prosecutor's Office
- Public Defender of Rights

Intergovernmental organisations

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

Non-governmental organisations and other civil society actors

- Caritas (Project Magdala and Centre "PRO" in Blansko)
- Diakonie of the Evangelical Church of Czech Brethren
- KARO
- La Strada Czech Republic
- Organisation for Aid to Refugees (OPU)

Government's comments

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

GRETA engaged in a dialogue with the Czech 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 Czech authorities on 6 December 2019 and invited them to submit any final comments. The comments of the authorities, submitted on 3 February 2020, are reproduced hereafter.

MINISTRY OF JUSTICE OF THE CZECH REPUBLIC
Vyšehradská 16, 128 10 Praha 2

Your ref.:
Date:
Our ref.: MSP-27/2020-SL-SNK/4

Respond to: Mrs. Marta Pelechová
Tel No. +420 221997904
Fax No.

E-MAIL: mpelechova@msp.justice.cz

Mrs. Petya Nestorova
Executive Secretary of the Council
of Europe Convention on Action
against Trafficking in Human Beings
Directorate of Human Dignity,
Equality and Governance
Council of Europe
Avenue de l'Europe
F-67075 Strasbourg Cedex
France



Prague, 03.02.2020
Number of pages: 1
Enclosures: 1

**Comments by the Czech Republic on the GRETA's First Round Evaluation Report
on the Czech Republic**

Dear Mrs. Nestorova,

Thank you for providing us with the GRETA's final report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Czech Republic during the first round of evaluations.

In this respect, please find enclosed a few final comments by the Czech Republic on the report and thank you in advance for taking them into consideration.

Should you have any comments or questions in this respect, do not hesitate to contact me.

Yours faithfully,

Marta Pelechová
International Dossiers Coordinator

Enclosures: Comments by the Czech Republic on the

Mgr. Marta Pelechová

Ministerstvo spravedlnosti ČR

Elektronicky podepsáno: 03.02.2020 14:05:33

T=vrchní ministerský rada, SERIALNUMBER=P151448, G=Marta,

SN=Pelechová, CN=Mgr. Marta Pelechová, OU=01015,

OU=Koordínátorka mezinárodní agendy, O=Česká republika -

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

Comments by the Czech Republic

Para 69

As we had indicated in our previous comments, the report mentioned in this paragraph is outdated (from 2013) and the data contained therein on the number of foreigners from Ukraine, Belarus, the Philippines and other countries are not substantiated and therefore represent a mere estimate. Neither can we accept the information on "experts in the field" which states that many foreigners work 12-15 hours a day, sometimes six or seven days a week, and often cannot take any vacation days because of fear of „being sacked". The same article however states that the statistics on foreigners are not available because most of them are/work in the Czech Republic illegally (not as an employment) and therefore they do not contact relevant supervisory authorities in case of potential problems (*"Very rarely. They wouldn't do it, because they cannot afford it. Because if they are working without a contract or a work permit, then their residency permit can be cancelled and they can get an order of expulsion and a ban on returning to the country later on."*).

The Labour Code protects all employees who have concluded a working relationship on the basis of the Labour Code. In case anyone (including a Czech citizen) decides to breach the law by executing illegal work, it is not possible to provide such persons the rights otherwise guaranteed by the Czech legislative order (the right for a vacation, rest, working hours, reason for dismissal etc.).

It follows from the above-mentioned that in such cases we cannot speak of exploitation, nor THB, but of deliberate surpassing or breaching of laws stipulating a.o. working relationships. The campaign mentioned in the article was only fictional and calculated activity of two NGOs and one advertising agency without any reliable results. And even the organizers of this questionable event admitted that the foreigners asked in the article did not want to reveal their identity because they would endanger their residency permit. It may be therefrom deducted that they had already received a residency permit as well as a work permit.

With respect to the above-mentioned, we consider the information provided in para 69 as not correct and therefore not suitable for inclusion in the report.

Also, **we provide below more recent statistical data which are from an official resource** (the Czech Statistical Office – hereinafter the "CSO") and which were submitted to the Government of the Czech Republic at the end of 2016:

According to the CSO data, 497.430.000 of all employed persons in the Czech Republic in 2014 less than 171.000 persons were in the rank "97-Activities of households as employers of household staff", in 2015 it was 14.000 employees out of a total number of 504.190.000 employees. **Ideas that the real number of workers in households could range up to several tens of thousands therefore do not seem as correct.**

As of 30 June 2016, a total of 35.008.000 foreign workers in the Czech Republic were kept in the records, while in the area of "Activities of households as employers of household staff" only 43 workers were employed (including 29 women; when 10 of that persons were from the EU countries and 33 persons from other countries), **which represents 0,012 % of the total number of foreign workers.**

Also, we reiterate our position on our previously provided comment (concerning the last sentence of para 69) that preventive controls of dwelling to see whether there do not happen to be an illegal migrant seem absurd and a change of a legal order in this sense would not be acceptable. The right for the inviolability of the dwelling is a fundamental right which cannot be violated.

Appendix I

Para 13, second point from the bottom

The Facility for Foreign children provides complete assistance to unaccompanied minors (including identified victims of THB) provide safe and adequate accommodation, professional care, educational program and cooperation with other professionals when needed. Disappearing of unaccompanied children is not based on deficit in safe accommodation or adequately trained supervisors or foster parents. We therefore believe this recommendation should be deleted or modified.

Para 18

We would like to clarify that unaccompanied children are protected with institutional care which is a form of a residence permit until the age of 18 years old (in some cases 19 years old).