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Group of Experts on Action
against Trafficking in Human Beings

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

First evaluation round

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Preamble

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Executive summary

The Dutch authorities have taken decisive steps to develop the legal and institutional framework for action against human trafficking, with the adoption of anti-trafficking legislation and comprehensive national action plans, as well as the setting up of a task force to co-ordinate public action against trafficking. Further, the Netherlands was the first country to set up a National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children who, as an independent figure, reports on a regular basis to the Dutch Government on the nature and scale of human trafficking and recommends improvements regarding the anti-trafficking legislative and policy framework.

The Dutch authorities have developed an approach based on multi-agency co-operation and action to combat trafficking at national and local levels (the so-called “barrier model”) and involving many public actors who might come into contact with victims of trafficking. Law enforcement agencies, the public prosecution service, the labour inspectorate and the immigration authorities all have specialised members of staff who are trained to tackle trafficking situations. A number of local actors are also being trained and co-operate with each other. A number of judges who have been chosen to handle trafficking cases are being specifically trained. GRETA welcomes the efforts made by the Dutch authorities in training relevant public actors on human trafficking.

While anti-trafficking action led in the Netherlands has been until recently, for the most part, focused on trafficking for sexual exploitation, the last few years have seen more targeted initiatives being taken against labour exploitation, in particular after several large-scale cases in the agricultural sector were discovered. GRETA nonetheless encourages the authorities to further strengthen their efforts, in particular with a view to limiting the dependency of workers on their employers when they are recruited through employment agencies.

Data collection on human trafficking is well developed in the Netherlands and is used as a tool to inform anti-trafficking policies. However, GRETA notes that some improvements concerning the reporting of presumed child victims of trafficking are needed.

GRETA welcomes the considerable efforts made in the Netherlands in the area of awareness raising, both among the general public and in respect of vulnerable groups, and invites the Dutch authorities to plan future actions in the light of the assessment of the impact of previous awareness-raising measures. Further, GRETA considers that the Dutch authorities should strengthen their efforts to discourage demand for the services of trafficked persons, for all forms of exploitation, in partnership with the private sector and civil society.

The identification of victims of human trafficking in the Netherlands is currently in the sole hands of law enforcement agencies. GRETA urges the Dutch authorities to strengthen multi-agency involvement in the decision-making process leading to the identification of victims of trafficking. Further, GRETA underlines the importance of placing the assistance to and protection of possible victims at the heart of the identification procedure and not linking identification to the prospects of the investigation and prosecution. GRETA also invites the Dutch authorities to improve the identification of victims of trafficking for the purpose of labour exploitation and the detection of victims among asylum seekers, particular unaccompanied foreign minors.

Specialised shelters for foreign victims of trafficking have been set up in different areas of the country with a view to providing adapted assistance during the reflection period of three months. GRETA calls on the Dutch authorities to improve transition from these specialised shelters to other follow-up shelters after the reflection period and to ensure continuity in the psychological and/or medical support they receive. Furthermore, GRETA urges the Dutch authorities to ensure that assistance provided to foreign victims is not linked to investigations or prosecutions being pursued.

As regards child victims, unaccompanied foreign minors who have been trafficked or are at risk of being trafficked can be accommodated in protected reception centres where they benefit from specific assistance. Young victims who have been forced into prostitution by so-called “loverboys” also benefit from specialised shelters. However, apart from these two situations, child victims are catered for under the general youth care system. According to GRETA, the Dutch authorities should take full account of the particular vulnerability of child victims, in accordance with the best interests of the child, and further develop a proactive approach to child trafficking.

GRETA welcomes the provision in the Netherlands of a reflection period longer than the minimum of 30 days laid down in the Convention. However, in practice, it appears that frequent contacts with the police are organised during this period, with victims being sometimes taken to the police station for interviews. Whilst seeing the benefit of gaining the trust of victims, GRETA stresses the need to ensure that victims fully enjoy their right to use this period to recover from the exploitative situation and decide on their co-operation with the authorities. GRETA welcomes the fact that Dutch legislation provides for the issuing of residence permits to both victims who co-operate in the investigation or criminal proceedings and on the basis of the victim’s personal situation. However, it recommends that the Dutch authorities take steps to ensure that, in practice, victims can benefit from the right to obtain a renewable residence permit when they are unable to co-operate with the authorities and to raise awareness of this possibility among relevant professionals and victims.

GRETA welcomes the introduction of the system of advance payment of compensation to victims when the convicted trafficker has not paid the full amount of compensation eight months after the court judgment has become final.

GRETA notes that the principle of non-punishment of victims that have been compelled by traffickers to commit a criminal offence has been regularly applied by public prosecutors and courts alike. GRETA nonetheless calls on the authorities to ensure that victims having committed an offence under the influence of traffickers are not barred from obtaining a residence permit as has happened.

GRETA invites the Dutch authorities to further support the specialisation of judges on human trafficking in order to continue securing high rates of convictions and sentences proportionate to the seriousness of this crime. Finally, GRETA commends the creation of a protection programme for victims and witnesses of trafficking and invites the Dutch authorities to make full use of it.

List of acronyms

ACM	Amsterdam Co-ordination Centre for Specialist Care for Victims of Human Trafficking
CC	Criminal Code
CCP	Code of Criminal Procedure
CCV	Centre for Crime Prevention and Safety
COA	Central Agency for the Reception of Asylum Seekers
COSM	Category-oriented Shelters for Victims of Human Trafficking
EMM	Expertise Centre on Human Trafficking and People Smuggling
DT&V	Departure and Repatriation Service
IND	Immigration and Naturalisation Service
Inspectorate SZW	Inspectorate under the Ministry of Social Affairs and Employment
KMar	Royal Netherlands Marechaussee
LEM	National Expert Group on Trafficking in Human Beings
LIEC	National Information and Expertise Centre
MIG	People Smuggling and Human Trafficking Information Group of the IND
OM	Public Prosecution Service
RIEC	Regional Information and Expertise Centres
VNG	Association of Netherlands Municipalities

I. Introduction

1. The Netherlands deposited the instrument of ratification of the Council of Europe Convention on Action against Trafficking in Human Beings (“the Convention”) on 22 April 2010. The Convention entered into force for the Netherlands on 1 August 2010.¹

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. For the first evaluation round, GRETA drew up a monitoring timetable according to which the Parties to the Convention were divided into groups, the Netherlands being in the third group of 10 Parties to be evaluated.

3. In accordance with Article 38 of the Convention, GRETA proceeded with the examination of the measures taken by the Netherlands 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 Netherlands on 31 January 2012. The deadline for replying to the questionnaire was 1 June 2012. The Netherlands submitted its reply on 4 June 2012.

4. In preparation of the present report, GRETA used the reply to the questionnaire by the Netherlands, other information collected by GRETA and information received from civil society. An evaluation visit to the Netherlands took place from 3 to 7 June 2013, carried out by the following delegation:

- Ms Gulnara Shahinian, member of GRETA;
- Mr Frédéric Kurz, member of GRETA;
- Mr Gerald Dunn, Administrator at the Secretariat of the Convention on Action against Trafficking in Human Beings.

5. During the visit, the GRETA delegation held meetings with the Minister of Security and Justice, as well as the National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children, the Task Force on Human Trafficking and officials from relevant ministries and public agencies (see Appendix II). These meetings took place in a spirit of close co-operation.

6. The GRETA delegation held separate meetings with representatives of non-governmental organisations (NGOs) and other members of civil society, as well as with representatives of the Office of the United Nations High Commissioner for Refugees (UNHCR), the United Nations Children’s Fund (UNICEF) and International Organization for Migration (IOM) present in the Netherlands. GRETA is grateful for the information provided by them.

7. Further, in the context of the evaluation visit to the Netherlands, the GRETA delegation visited a specialised shelter for foreign female victims of human trafficking, a crisis centre which can accommodate foreign girls who are victims of trafficking, and a shelter for male victims of violence, including human trafficking.

8. GRETA is grateful for the valuable assistance provided by the contact person appointed by the Dutch authorities, Ms Evelien Pennings, Policy Advisor, Department for Law Enforcement, Directorate-General for Administration of Justice and Law Enforcement, Ministry of Security and Justice.

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

9. The draft version of this report was adopted by GRETA at its 18th meeting (4-8 November 2013) and was submitted to the Dutch authorities for comments on 13 December 2013. The Dutch authorities' comments were received on 24 February 2014 and were taken into account by GRETA when drawing up the final evaluation report, which was adopted at GRETA's 19th meeting (17-21 March 2014).

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

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

10. The Netherlands is a source, destination and transit country for victims of human trafficking. According to data provided by the Dutch authorities, 993 possible victims of human trafficking² were reported in 2010, 1 222 in 2011 and 1 711 in 2012. Children represented 16% and men 19% of the total number in 2011.

11. As regards nationalities, in 2011, 28% of the total number of possible victims were Dutch, 11% Nigerian, 10% Hungarian, 9% Polish and 6% Bulgarian.³ A constant feature over the last years is the high proportion of national victims, the great majority of whom are young women or girls who fall prey to so called “loverboys” who manipulate and force them into prostitution (see paragraph 20).

12. The proportion of possible victims of THB in sectors outside the sex industry increased from 6% in 2007 to 20% in 2011.⁴ The levels of victims of trafficking for the purpose of labour exploitation have therefore increased sharply over the last years and they will in all likelihood continue increasing, in particular in high-risk sectors (e.g. agriculture, horticulture, catering and construction).

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

a. Legal framework

13. At the international level, in addition to the Council of Europe Anti-Trafficking Convention, the Netherlands is Party to the United Nations (UN) Convention against Transnational Organised Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (Palermo Protocol), ratified respectively in 2004 and 2005. The Netherlands 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 1995 and 2006), the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol (ratified respectively in 1991 and 2002), as well as conventions elaborated under the International Labour Organization (ILO), in particular the Convention concerning Forced or Compulsory Labour (No. 29), the Convention concerning the Abolition of Forced Labour (No. 105) and the Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (No. 182) (ratified respectively in 1933, 1959 and 2002). Further, the Netherlands is party to a number of Council of Europe conventions in the criminal field which are relevant to action against trafficking in human beings (THB).⁵

² Data compiled by the Office of the National Rapporteur on trafficking of human beings and sexual violence against children on the basis of possible victims registered with the NGO CoMensha (see paragraph 21).

³ Ibid.

⁴ Ibid.

⁵ In particular, the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse; the European Convention on Mutual Assistance in Criminal Matters and its Additional Protocols; the European Convention on Extradition and its Additional Protocols; and the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism.

14. As a member of the European Union (EU), the Netherlands is bound by EU legislation with a bearing on combating THB, in particular 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;⁶ 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; 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.

15. The Dutch legal framework in the field of action against trafficking in human beings has evolved in the light of the country's international commitments. Trafficking in human beings is criminalised in the Dutch Criminal Code (CC) under Article 273f, which entered into force in 2005.⁷ Prior to this, the CC only criminalised the trafficking in human beings for the purpose of sexual exploitation under Article 250a.

16. The Aliens Act 2000 and Aliens Decree 2000 form the legal basis for the stay of possible victims of trafficking without legal residence in the Netherlands. Chapter B8-3 of the Aliens Circular 2000, referred to as the Residence Regulation for Trafficking in Human Beings,⁸ governs the reflection period, residence permit and access to assistance for foreign victims of trafficking without legal residence in the Netherlands.

17. The Dutch authorities have also referred to Article 151a of the Municipalities Act whereby municipalities can lay down regulations on prostitution. A Bill to Regulate Prostitution and to Combat Abuses in the Sex Industry is currently before Parliament. Further, the Public Administration (Probity Screening) Act⁹ allows municipalities to screen individuals and companies applying for business permits or subsidies, including their business partners, to identify any criminal connections. Other laws relevant to action against trafficking include:

- the Youth Care Act which provides for shelter and care for underage victims;
- the Social Support Act which provides for shelter and care for adult victims of THB with legal residence;
- the Placement of Personnel by Intermediaries Act which contains regulations and obligations for employment agencies;
- the Foreign Nationals Employment Act which contains regulations and obligations with regard to permitting foreign nationals to work in the Netherlands, and one of the aims of which is to combat abuse, such as illegal employment and other types of employer fraud.

b. National Strategies and Action Plans

18. In 2004 the first National Action Plan against Human Trafficking was launched by the Dutch Government following recommendations of the National Rapporteur on Trafficking in Human Beings (see paragraph 21). In response to concerns expressed by the Dutch Parliament, it was revised and supplemented in 2006 to place greater focus on child victims.

⁶ Replacing Council Framework Decision 2002/629/JHA of 19 July 2002 on combating trafficking in human beings.

⁷ The provision at the time was numbered Article 273a. It was renumbered Article 273f in 2006, without any changes to the substance.

⁸ Provisions under the Aliens Circular 2000 were recently renumbered and former Regulation B9, which is still the commonly used name, became Regulation B8-3 or Residence Regulation for Trafficking in Human Beings.

⁹ Known as the BIBOB, in Dutch: *Wet Bevordering Integriteitsbeoordelingen door het Openbaar Bestuur*.

19. The Task Force on Human Trafficking (“the Task Force”), which was set up in 2008, was mandated to draw up and implement a new anti-trafficking action plan for 2011-2014 with specific emphasis on an integrated approach to action against trafficking. The issues tackled in the action plan include, among others, anti-trafficking action at municipal level, action against labour exploitation, exchange of information, aspects of immigration law, victim assistance and building the expertise of the judiciary. For each theme, the action plan specifies which of the bodies represented in the Task Force are responsible for implementation and which specific goals are to be achieved (see paragraph 60). It is stated in the action plan that the effects of the spending cuts were not known at the time of drafting and thus its implementation would depend on the necessary funds being made available.

20. Much attention has been given in recent years in the media and in Parliament to the issue of “loverboys”, whose victims are primarily Dutch nationals. As a result, in December 2011, the Ministries of Security and Justice, Education, Culture and Science as well as Health, Welfare and Sport launched the “Comprehensive Action Plan on the Issue of ‘Loverboys’ 2011-2014”. It contains measures aiming at first preventing young girls from falling victim to “loverboys” through awareness raising and empowerment; second, improving the comprehensive approach to “loverboys” (e.g. an internet campaign, information to be distributed to youth care centres, school, municipalities and the police, workshops for care workers); and, finally, improving the care and protection of victims (see paragraphs 166 and 167).

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

a. National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children

21. The institution of National Rapporteur on Trafficking in Human Beings (“the National Rapporteur”) was established in 2000. The National Rapporteur’s mandate was expanded in 2012 to cover also sexual violence against children, and the name of institution was changed accordingly. Since 15 November 2013, the National Rapporteur is formally instituted by law and appointed by the King upon recommendation of the Minister of Security and Justice, in consultation with the Minister of Health, Welfare and Sport. The term of office is of four years, renewable once. The National Rapporteur has no executive tasks at operational level. The National Rapporteur submits annual reports to the government, and specifically to the Minister of Security and Justice because of his co-ordinating role, and may provide recommendations to other stakeholders. These reports contain information on relevant regulations and legislation, prevention, criminal investigations, prosecution and victim support, as well as recommendations on how to improve the national legal and policy framework in order to combat trafficking more effectively. The government responds to the reports and transmits them to Parliament. These reports are public and available on the National Rapporteur’s website. In 2012, the National Rapporteur published six thematic reports instead of the annual report (see paragraph 94).

22. The National Rapporteur is assisted by an office consisting of a staff of 13, including a Head of Office, five researchers on THB and five on sexual violence against children. This office gathers information, undertakes research and carries out analyses.

b. Task Force on Human Trafficking

23. By a decision of 27 February 2008 the Minister of Justice¹⁰ established the Task Force on Human Trafficking for three years to strengthen action against human trafficking by promoting a more integrated approach, identifying problematic areas and making policy proposals. The Task Force's remit also includes people smuggling. It was initially composed of representatives of relevant ministries, the National Police, the Mayor of Utrecht, the Deputy Mayor of Rotterdam, a judge, the National Rapporteur, and was chaired by the Chairman of the Board of Prosecutors General. While all members were representatives of public bodies, the Task Force was supposed to co-operate with civil society and in particular CoMensha, an NGO with specific responsibilities regarding trafficked victims (see paragraph 36).

24. In March 2011 the Task Force's mandate was extended for another three year by the Minister of Security and Justice.¹¹ The composition of the Task Force was expanded to include representatives of relevant ministries (Ministries of Security and Justice, Foreign Affairs, Interior and Kingdom Relations,¹² Health, Welfare and Sport, Social Affairs and Employment), agencies (National Police, Royal Netherlands Marechaussee, Immigration and Naturalisation Service), several municipalities (represented by the mayors of Amsterdam, the Hague, Utrecht and Alkmaar as well as the Deputy Mayor of Rotterdam), the president of the District Court of Breda, the National Public Prosecutor on Human Trafficking (see paragraph 26), a prosecutor general and the National Rapporteur. The Task Force is chaired by the President of the Board of Prosecutors General. In addition to these public bodies, the NGO CoMensha has become a full member of the Task Force. Further, in 2013 the Chamber of Commerce also became a member of the Task Force.

25. As noted in paragraph 19, in July 2011 the Task Force adopted a new action plan to tackle human trafficking which provides a framework for its action over three years. The Task Force will continue its work for a third term (2014-2016) and is developing its agenda of priorities (see paragraph 63).

c. Public Prosecution Service

26. A public prosecutor specialised in human trafficking is appointed in each Public Prosecution Service (OM) district. Moreover, a National Public Prosecutor on Human Trafficking has been appointed to ensure co-ordination both internally and vis-à-vis external partners. The specialised public prosecutors and the National Public Prosecutor on Human Trafficking hold regular meetings which also involve other stakeholders. In addition, there are specialised prosecutors on THB in the Functional Prosecution Service which deals with tax and environmental cases.

¹⁰ Since October 2010, the Ministry of Justice has taken over responsibility for public security matters from the Ministry of the Interior and Kingdom Relations and, as a consequence, has been renamed Ministry of Security and Justice.

¹¹ Decision of the Minister of Security and Justice No. 5687744/11 of 10 March 2011, providing for the establishment of the Task Force on Human Trafficking, Government Gazette No. 5052, 24 March 2011.

¹² Since September 2012, the Ministry of the Interior and Kingdom Relations is no longer a member of the Task Force as the Directorate for Migration Policy was moved to the Ministry of Security and Justice.

d. National Police

27. The National Police comes under the Ministry of Security and Justice and is composed of the National Unit, regional units and a police services centre. As a part of a reorganisation of regional units which took place in 2013, their number was brought down from 25 to 10. All regional units as well as the National Unit have an officer specialised in human trafficking. Their task is to identify opportunities for combating THB within the remit of their unit, to improve the knowledge of their colleagues and to advise the police chief of the regional unit on THB-related matters. The specialised officers form the National Expert Group on THB (LEM). Both the National Rapporteur and the Royal Netherlands Marechaussee (see paragraph 31) are also members of the LEM. A core group of these experts meet on a monthly basis. The LEM in its full composition meets twice a year; other stakeholders are invited, such as the OM, the Immigration and Naturalisation Service (see paragraph 28), the Tax and Customs Administration, the NGO CoMensha, the Ministry of Security and Justice and the Ministry of Social Affairs and Employment.

e. Immigration and Naturalisation Service

28. The Immigration and Naturalisation Service (IND) is responsible for implementing the so-called Residence Regulation for THB that applies for foreign victims of trafficking in human beings, in particular regarding the reflection period and residence permits. The IND has appointed special contact persons for this purpose, and applications for residence permits under the aforementioned regulation are only dealt with by or through these contact persons. Co-ordination meetings are regularly held between policymakers, legal advisors and contact persons.

29. The IND has an information unit that records data regarding THB and migration crime, the People Smuggling and Human Trafficking Information Group (MIG). The IND transfers any information on possible cases of trafficking to the relevant investigative authorities and refers possible trafficked victims to the National Police or the Royal Netherlands Marechaussee for the offences to be investigated.

30. The IND also carries out consultations with organisations offering legal assistance, the Central Agency for the Reception of Asylum Seekers (COA) and social workers. Special contact partners are appointed for this purpose at each asylum seekers' centre.

f. Royal Netherlands Marechaussee

31. The Royal Netherlands Marechaussee (KMar) performs not only military but also border police functions at airports, sea harbours and along the coasts. It carries out investigations into all forms of cross-border crime, in particular drug trafficking and migration-related crimes such as THB. It also undertakes general policing duties at airports. The KMar has a specialised team at the main international airport, Amsterdam Airport Schiphol, known as the *Sluisteam* or Filter Team, which is deployed to identify and take action against trafficking in human beings and people smuggling. In addition, the KMar has three teams specialised in combating migration-related organised crime.

g. Inspectorate SZW

32. The Inspectorate SZW¹³ was set up in 2012 following a merger of the former Labour Inspectorate, the Work and Income Inspectorate and the Social Security Intelligence and Investigation Department, all coming under the Ministry of Social Affairs and Employment. In addition to supervising respect for labour regulations, the Inspectorate SZW is competent to detect and investigate labour exploitation and human trafficking cases under the supervision of the OM. The Criminal Investigations Department is responsible for undertaking that part of the mandate of the Inspectorate SZW.

¹³

SZW stands for *Sociale Zaken and Werkgelegenheid* or Social Affairs and Employment.

h. Expertise Centre on Human Trafficking and People Smuggling

33. The Expertise Centre on Human Trafficking and People Smuggling (EMM) is an agency set up in 2005 and co-run by the National Police, the KMar, the IND, and the Inspectorate SZW. Among its tasks, the EMM pools information on suspected trafficking situations supplied by the different investigation authorities. It also receives information from the Chamber of Commerce, the COA, the Foundation for Compliance with the Collective Agreement for Temporary Workers (SNCU) and occasionally the NGO FairWork (see paragraph 37). The information gathered can be used to propose the launch of investigations. It also contributes to awareness raising and training of professionals.

i. Municipalities

34. Dutch municipalities often have specialised staff or units working on THB and/or prostitution. A number of them, such as Amsterdam, The Hague or Rotterdam, have appointed co-ordinators of the chain of actors active in the anti-trafficking field. Larger municipalities also have a policy advisor responsible for policy and regulations relating to prostitution and the fight against sexual exploitation.

35. Furthermore, municipalities are competent for issuing licences and permits for businesses such as hotels, restaurants, bars, brothels and construction sites. If there are any doubts that the businesses are involved in criminal activities, including THB, the licence or permit may be refused or withdrawn. In addition, municipalities fund shelters housing victims of THB, supervise the prostitution sector, support persons who want to exit prostitution, set up awareness raising programmes on THB in schools and inspect housing conditions which can serve as an indication of THB (see paragraph 59).

j. NGOs and other civil society actors

36. A number of NGOs in the Netherlands are active in the anti-trafficking field, for the most part on trafficking for sexual exploitation but not exclusively. The NGO CoMensha¹⁴ (Anti-Trafficking Coordination Centre) plays a pivotal role in the Dutch anti-trafficking framework. It is officially tasked with the registration of all possible trafficked persons and data collection primarily on behalf of the National Rapporteur (see paragraph 92). It also co-ordinates the search for suitable shelters for possible victims and makes initial contacts with health-care organisations. It also acts as a contact point for other NGOs dealing with human trafficking and is therefore in regular contact with specialised NGOs which run shelters where victims can be accommodated. Furthermore, as noted in paragraph 23, CoMensha is a member of the Task Force on Human Trafficking where it is the sole representative of the NGO sector. It liaises with other specialised NGOs to voice their concerns within the Task Force.

37. Among the NGOs providing support and shelter to victims of trafficking for the purpose of sexual exploitation can be cited Fier Fryslân, which works together with several other NGOs and of which CKM (Centre for child trafficking and human trafficking) is part, HVO-Querido (which acts as Amsterdam's human trafficking co-ordination point, see paragraph 69), Moviera, PMW Rotterdam, and SHOP Den Haag. Regarding the protection of the rights of sex workers, reference can be made to the Geisha Foundation. Insofar as trafficking for labour exploitation is concerned, the NGO FairWork provides support for victims and participates in training for professionals.

38. The Jade Foundation runs protected reception shelters for unaccompanied children (see paragraph 163). In addition, the Nidos Foundation has been entrusted with providing guardianship for unaccompanied foreign minors by the Ministry of Security and Justice.

39. Trade unions, such as the Netherlands Trade Union Confederation (FNV), play a role in the prevention of labour exploitation by raising awareness of risks especially among migrant workers. Employer organisations such as the Dutch Federation of Agriculture and Horticulture (LTO Netherlands) also contribute to the prevention of labour exploitation.

¹⁴ CoMensha is a member of La Strada International.

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

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

40. 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.”¹⁵

41. 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 Rights¹⁶ (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.¹⁷

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

43. 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.¹⁸

¹⁵ Addendum to the report of the United Nations High Commissioner for Human Rights (E/2002/68/Add. 1), www.ohchr.org/Documents/Publications/Traffickingen.pdf

¹⁶ *Rantsev v. Cyprus and Russia*, application No. 25965/04, judgment of 7 January 2010, ECHR 2010, paragraph 282.

¹⁷ See also *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. the UK*, application No. 4239/08, judgment of 13 November 2012.

¹⁸ 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.

44. The Dutch authorities have underlined that, according to Article 93 of the Constitution of the Netherlands, international conventions are directly applicable in the national legal system once they have been published. In addition to the Convention, the Netherlands has ratified a number of instruments that prohibit human trafficking, slavery and forced labour (see paragraph 13). The rights derived from these instruments can be invoked by individuals before national courts, which can decide to include them in their consideration of a case. In addition, in accordance with Article 94 of the Constitution, Dutch statutory regulations are not applicable if they are not compatible with the provisions of a treaty. When courts find that legislation, regulations or governmental acts contravene a provision of an international human rights convention, the government can be found liable under Article 6:162 of the Civil Code, but the Dutch authorities have indicated that such a situation has not arisen so far. The Dutch authorities have also pointed out that human trafficking is contrary to the fundamental rights enshrined in the Constitution, including the right to inviolability of one's own body under Article 11.

45. The Action Plan 2011-2014 "Strengthening the integrated approach to tackling trafficking in human beings" takes the European Court of Human Rights' judgment in the Rantsev case as a framework for an integrated approach to tackling THB, as expressly said in the introduction to the Action Plan.

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

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

i. *Definition of "trafficking in human beings"*

47. 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.

48. Until 2005 the CC criminalised only certain forms of trafficking linked to the exploitation of prostitution of others and sexual exploitation. A new definition of human trafficking also covering other types of exploitation was provided in Article 273a (subsequently renumbered Article 273f) of the CC, which entered into force on 1 January 2005. It was amended twice in 2013: first to increase sentences and second to ensure transposition of Directive 2011/36/EU. Article 273f of the CC reads as follows:

“1. Any person who:

- 1°. with the intention of exploiting another person or removing his or her organs, recruits, transports, transfers, accommodates or shelters that other person, including the exchange or transfer of control over that person, by means of duress, violence or another hostile act, or the threat of violence or other hostile act, or by means of extortion, fraud, deception or the abuse of power arising from a specific state of affairs, or by means of the abuse of a position of vulnerability, or by means of giving or receiving payments or benefits in order to obtain the consent of a person having control over that other person;
- 2°. recruits, transports, transfers, accommodates or shelters a person, including the exchange or transfer of control over that person, with the intention of exploiting that other person or removing his or her organs, if that person has not yet reached the age of eighteen years;
- 3°. recruits, takes away or abducts a person with the intention of inducing that person to make him or herself available for sexual acts with or for a third party for payment in another country;
- 4°. forces or induces another person by means referred to under 1° to make him or herself available for work or services or to make his/her organs available, or takes any action in the circumstances referred to under 1° which he knows or may reasonably be expected to know will result in that other person making him or herself available for work or services or making his or her organs available;
- 5°. induces another person to make him or herself available for sexual acts with or for a third party for payment or to make his or her organs available for payment, or takes any action in relation to another person which he knows or may reasonably be expected to know will result in that other person making him or herself available for these acts or making his or her organs available for payment, if that other person has not yet reached the age of eighteen years;
- 6°. intentionally profits from the exploitation of another person;
- 7°. intentionally profits from the removal of organs from another person, if he knows or may reasonably be expected to know that the organs of that person were removed under the circumstances referred to under 1°;
- 8°. intentionally profits from the sexual acts of another person with or for a third party for payment or the removal of that person's organs for payment, if this other person has not yet reached the age of eighteen years;
- 9°. forces or induces another person by the means referred to under 1° to provide him with the proceeds of that person's sexual acts with or for a third party or of the removal of that person's organs;

shall be guilty of trafficking in human beings and as such liable to a term of imprisonment not exceeding twelve years or a fifth category fine.

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

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

- 1°. offences as defined in paragraph 1 if they are committed by two or more persons acting in concert;
- 2°. offences as defined in paragraph 1 if they are committed in respect of a person who is under the age of eighteen or in respect of a person whose position of vulnerability is being abused.
- 3°. offences as defined in paragraph 1 if they are preceded by, committed by use of or followed by violence.

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

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

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

7. Article 251¹⁹ shall apply *mutatis mutandis*.”²⁰

¹⁹ See paragraph 206.

²⁰ Unofficial translation provided by the Dutch authorities.

49. The three components of the definition of human trafficking in the Convention, i.e. action, means and purpose, are all included in Article 273f. The different actions listed under Article 273f(1) subparagraph 1 coincide with those of Article 4(a) of the Convention. As to the means, Article 273f(1) subparagraph 1 refers to duress, violence or another hostile act, threat of violence or another hostile act, extortion, fraud, deception or abuse of power, abuse of a position of vulnerability, giving or receiving payments or benefits in abuse of a position of vulnerability, and giving or receiving payments or benefits in order to obtain the consent of a person having control over another. According to the Dutch authorities, the term “hostile act” covers “abduction” as referred to under Article 4(a) of the Convention. Therefore all the means contained in the definition of the Convention are included in Article 273f of the CC.

50. Regarding the forms of exploitation, the definition contained in Article 273f of the CC covers, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced or compulsory labour or services, including begging, slavery or practices comparable to slavery or servitude, servitude, the exploitation of criminal activities or the removal of organs. The purposes provided for in Article 4(a) of the Convention are therefore all present and in addition, begging, as a form of forced labour, and the exploitation of criminal activities were included in Article 273f when the provision was amended in 2013. Furthermore, pursuant to Article 273f(1), subparagraph 2, the use of means does not have to be established in respect of children, which is in line with the Convention. National and transnational trafficking both fall within the remit of Article 273f of the CC.

51. While all components of the definition of human trafficking within the meaning of the Convention are found in Article 273f of the CC, GRETA notes that this provision contains other definitions, requirements and situations. This can partly be explained by the fact that the definition of human trafficking existing before 2005 has been kept alongside the new definition within the same provision.²¹ Article 273f(1) subparagraphs 3 to 9 deal with specific situations some of which exist independently from the requirements provided for by subparagraphs 1 or 2. For instance, pursuant to subparagraph 3, any person who recruits, takes away or abducts a person with the intention of inducing that person to make him or herself available for sexual acts with or for a third party for payment in another country will be guilty of trafficking in human beings or, according to subparagraph 6, any person who intentionally profits from the exploitation of another person will be guilty of trafficking in human beings. In their comments on the draft report, the Dutch authorities have indicated that this provision does not pose any problems of implementation in practice for judges, prosecutors, law enforcement agencies or the Inspectorate SZW. According to them, the range of situations covered by Article 273f is a strength that helps in prosecuting traffickers. Moreover, the Supreme Court has clarified how this provision was to be interpreted (see paragraph 52). This position appears to be shared by the National Rapporteur who published an article on the subject.²²

52. Whilst there is no provision addressing the consent of victims in the CC, the Dutch Supreme Court held in 2009 that consenting to the intended exploitation is irrelevant when deciding whether or not a person is a victim of THB.²³ The case at issue concerned Chinese irregular migrants exploited in a Chinese restaurant who had come to the Netherlands on their own initiative and had contacted the restaurant manager themselves, asking for food, shelter and, for some of them, work. The Supreme Court found that for abuse of a personal situation or a position of vulnerability to be established, traffickers need not have done more than recruit, transport, transfer, accommodate or received a person as provided by law; it is not necessary for traffickers to have taken the initiative of bringing the victims into the exploitative situation.

53. For further analysis of the definition of THB and related offences from a substantive criminal law perspective, see paragraphs 205-212.

²¹ See National Rapporteur's 8th General Report “Ten years of independent monitoring”, 2010, p. 25.

²² National Rapporteur, “Is Article 273f still that complicated?” (“Is artikel 273f Sr nog steeds zo ingewikkeld?”), June 2013, available, in Dutch only, at: www.nationaalrapporteur.nl/actueel/nieuws/2013/20130604-is-artikel-273f-nog-steeds-zo-ingewikkeld.aspx?cp=63&cs=59417

²³ Supreme Court, judgment of 27 October 2009, LJN: BI7097.

ii. *Definition of “victim of THB”*

54. 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.

55. In Dutch law, there is no stand-alone definition of victim of THB. According to Article 51a of the Code of Criminal Procedure (CCP), anyone who has suffered a financial loss or other disadvantage as a direct consequence of a criminal offence is considered to be a victim. This definition applies to victims of human trafficking as defined under Article 273f of the CC. Possible victims of trafficking should benefit from assistance and protection independently from the outcome of the criminal proceedings (see paragraphs 154 and following).

56. The question of the definition of victim of THB is 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*

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

58. The Dutch anti-trafficking framework is based on multi-agency co-operation and action, and this integrated approach has been built, in the last few years, around what the Dutch authorities refer to as the “barrier model”. The “barrier model” is construed as a crime prevention approach. The reasoning is to regard human trafficking as a “business” that has to overcome a number of barriers before traffickers earn money from the exploitation of victims, and the objective is to make each barrier harder for them to cross, thus making human trafficking more difficult and less lucrative. The barriers which have been identified are the following: recruitment, entry, identity, psychological attachment, housing, work and financial aspects.

59. An important feature of the “barrier model” is to put emphasis on what can be achieved at the municipal level to counter trafficking. The premise is that a law enforcement approach is not sufficient alone to fight effectively THB. The goal is to increase connections between municipalities as well as co-operation with the law enforcement authorities, the OM, the Inspectorate SZW and the Tax and Customs Administration. In the Netherlands, municipalities have gained a relatively high level of responsibility as a result of the increasing decentralisation of powers. By way of example, the Public Administration (Probity Screening) Act allows municipalities to refuse or revoke business permits when the applicants have criminal connections or when the flow of funds is not transparent. Another illustration concerns municipal fire and safety inspectors who can detect suspicious situations of possible trafficking during routine inspection visits. Municipalities are also directly involved in the regulation and control of the prostitution sector and are therefore in a position to act against trafficking for sexual exploitation, including through health and safety inspection visits in registered premises. Municipal civil servants attending to citizens who register in the municipal (personal records) database can also detect THB cases. GRETA takes note with interest of this crime prevention approach, especially regarding the local level.

60. The Task Force on Human Trafficking (see paragraphs 23-25) epitomises the “barrier model” through its composition and field of action. As noted in paragraph 24, all competent ministries, law enforcement agencies, the IND, five large municipalities, the OM, one judge, the National Rapporteur and one NGO (CoMensha) are represented in the Task Force. In June 2013 the Chamber of Commerce was invited to join the Task Force. Identifying barriers has allowed the allocation of responsibility for the implementation of the action plan for 2011-2014:

- integrated approach: OM, Police, Ministry of Security and Justice, municipalities;
- administrative approach: Ministry of Security and Justice, municipalities;
- labour exploitation: Ministry of Social Affairs and Employment;
- exchange of information: Police, Ministry of Security and Justice, municipalities, KMar;
- aspects of immigration law: Ministry of Security and Justice, IND;
- assistance to victims: Ministry of Health, Welfare and Sports, CoMensha, municipalities, Ministry of Security and Justice;
- international cooperation: Ministry of Foreign Affairs, Ministry of Security and Justice;
- expertise of the judiciary: Judiciary, OM;
- pimps (the so-called “loverboys”): Ministry of Security and Justice, municipalities, Ministry of Health, Welfare and Sport;
- tackling organised crime groups and confiscation of criminal funds: OM, Police;
- internet: Ministry of Security and Justice, Police, Ministry of Social Affairs and Employment, KMar.

61. The Dutch authorities have decided to include CoMensha as the only NGO in the Task Force because of its central role in the chain of assistance and support to victims, but also by reason of the sensitive nature of discussions on certain policy areas or operational activities. It is nonetheless the view within the civil society sector that the Task Force would benefit from a stronger NGO participation in order to provide direct knowledge of problems faced on the ground in relation to particularly vulnerable groups, such as children.

62. In their comments on the draft report, the Dutch authorities have referred to the Strategic Meeting on Human Trafficking, a consultative structure set up in October 2011 that involves representatives of a number of specialised NGOs (CoMensha, FairWork, PMW, ACM, Jade, SHOP, Fier Fryslân and MJD Groningen) as well as the National Rapporteur. The Dutch authorities have argued that this structure contributed to facilitating the expression of specialised NGOs’ concerns which could then be relayed within the Task Force through, in particular, CoMensha and the National Rapporteur.

63. The Dutch authorities have also signalled that work on the draft agenda of priorities for the next term of the Task Force (2014-2016) is in its final stages. They have highlighted some of the issues that will be focused on, which include labour exploitation, child trafficking, abuses in the prostitution sector, enforcement and investigation on the internet, the administrative approach to THB; the balance between assistance of victims and investigations; involvement of smaller local governments. The Association of Netherlands Municipalities (VNG) and the National Information and Expertise Centre (LIEC) will join the Task Force, and the possibility of Youth Care the Netherlands (JN) – an agency working with all youth care organisations under the Youth Care Act – also joining it is under examination.

64. Alongside the Task Force, the Minister of Security and Justice is responsible for co-ordinating the national policy against trafficking. Regular interdepartmental meetings with different compositions are organised to co-ordinate policies. On a biannual basis, an interdepartmental meeting is organised by the Ministry of Security and Justice which NGOs also attend. In addition, NGOs can be commissioned to carry out specific projects, such as research, training, cultural mediation between investigators and victims or the creation of information materials.

65. The Netherlands was the first country to set up a national rapporteur on human trafficking in 2000. The Dutch National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children is an independent figure who reports on a regular basis to the government on the nature and scale of human trafficking and, since 2012, on sexual violence against children in the Netherlands (see paragraph 21). While she does not have powers of criminal investigation, the National Rapporteur and her staff have access to criminal files held by the police and judicial authorities. In addition, the National Rapporteur is entrusted with collecting and publishing statistical data on THB (see paragraph 91). GRETA welcomes the setting-up of the institution of the National Rapporteur on THB, which is in line with the spirit and the letter of the Convention.

66. As pointed out in paragraph 26, prosecutors with special training on THB are appointed in all OM districts, and a National Public Prosecutor on Human Trafficking, who also sits on the Task Force, acts as co-ordinator at country level. They hold six meetings a year, three of which include the police among participants.

67. Following a recommendation by the National Rapporteur, judges have been encouraged to undertake specialised training on THB. In The Hague, there is a group of five specialised judges who have followed continuous training on THB. They meet at least twice a year to share experience on trafficking cases. They also meet informally specialised public prosecutors on an annual basis. This group of specialised judges appears to have been initiated within the District Court of The Hague. From 1 January 2013 the number of first instance courts has been reduced to 11 as part of a revision of the judicial map (one court per prosecution district, with the exception of the Oost-Nederland region which has two courts). As a result the judiciary has taken the decision that a limited number of judges and legal staff deal with all THB cases thereon so that courts can ensure that the judges and legal staff in question possess enough substantive knowledge to tackle often complex THB cases. In addition, on 7 February 2013, the Board of Prosecutors General and the Council for the Judiciary agreed that THB cases reaching the National Public Prosecutors' Office and the National Public Prosecutor's Office for Serious Fraud and Environmental Crime (see paragraph 26) will be handled by four designated courts (Amsterdam, Rotterdam, Den Bosch and Zwolle). Cases reaching the 10 prosecution districts will be handled at first instance by the competent district courts. At the time of GRETA's visit to the Netherlands in June 2013, four investigating judges were specialised in THB in Amsterdam and more specialised judges were to be appointed. GRETA welcomes the specialisation of judges on human trafficking which constitutes a good practice.

68. As mentioned in paragraph 27, each regional police unit has a specialised officer on THB within the aliens special branch. Together they form a network which meets twice a year to receive guidance and share best practices. Part of these meetings also involves other agencies and NGOs. As also noted in paragraph 27, the number of police regions has been cut down from 25 to 10, and fears have been expressed that this reorganisation might lead to loss of expertise. The National Rapporteur has also expressed concerns about a possible expertise loss following the transfer of THB cases to the aliens police as the part of the reorganisation process. In their comments on the draft report, the Dutch authorities have argued that reducing the number of police regions could on the contrary lead to more uniformity in combating trafficking.

69. In Amsterdam, multi-agency co-operation (the "barrier model") takes place on a daily basis between the municipal authorities, the THB officers of the police's regional unit and the NGO which has become the Amsterdam Co-ordination Centre for Specialist Care for Victims of Human Trafficking (ACM). Together they form what is called "the care chain" to ensure that victims receive adequate assistance from the outset (see paragraph 159). GRETA considers close co-operation between the authorities and civil society, as illustrated in Amsterdam, to be a positive practice. In her 8th report, the National Rapporteur points out that similar co-operation takes place in Rotterdam and other main cities, but that progress needs to be achieved in other municipalities where there is insufficient awareness of THB.

70. Also at the local level, the Regional Information and Expertise Centres (RIECs) pool together intelligence on organised crime from different partner agencies at regional level (police, OM, Tax and Customs Administration, municipalities, Inspectorate SZW, KMar, IND), including THB, and act as an expertise centre. There are 10 RIECs over the country, such as the Amsterdam-Amstelland RIEC, and one at national level, the LIEC, to ensure a uniform approach. As mentioned in paragraph 63, the LIEC will be joining the Task Force for its third term of activity (2014-2016).

71. Until the introduction of Article 273a (now renumbered 273f) of the CC, the focus of the fight against human trafficking was sexual exploitation. This has progressively changed with the criminalisation of labour exploitation as part of THB and even more so since the judgment of the Supreme Court of 2009, referred to in paragraph 52, established that the consent of victims to their exploitation is irrelevant. Several interlocutors have indicated that prior to that judgment, consent had played against potential victims in labour cases. There is also a specific chapter in the Task Force's action plan concerning labour exploitation. In their comments on the draft report, the Dutch authorities have indicated that labour exploitation will remain a priority in the third term of the Task Force. The Ministry of Social Affairs and Employment will be commissioning a study on the nature and scale of labour exploitation, the sectors and nationalities affected, and will also work to increase awareness of labour exploitation among municipalities and health organisations. Furthermore, the Inspectorate SZW is examining ways of developing further training for labour inspectors on recognising signs of trafficking for labour exploitation.

72. The NGO FairWork received a grant from the Ministry of Social Affairs and Employment to expand and improve assistance to possible victims of labour exploitation, for example by using cultural mediators. Moreover, employers' organisations inform affiliated employers about their obligations when they hire migrant workers. In 2013 the Dutch Federation of Agriculture and Horticulture (LTO Netherlands) carried out a campaign called "Being a good employer", with the support of the Ministry of Social Affairs and Employment, which involved flyers, posters, regional meetings and a film providing information on good working conditions, decent accommodation and decent pay.

73. In recent years a number of high-profile cases of trafficking for the purpose of labour exploitation in the agricultural and catering sectors have attracted some attention. Such cases often concern foreign temporary workers hired through employment agencies located abroad and proposing conditions of work which make workers very dependent on their employer through benefits in kind (work, accommodation, meals, all provided by the employer). By way of example, two cases brought to GRETA's attention demonstrate how such arrangements can easily lead to trafficking situations. One concerned the mushroom picking sector and the other the asparagus sector, and in both cases workers were entirely dependent on their employers, having to put up with poor working conditions, squalid accommodation, and sometimes not being paid for months. In its latest report on the Netherlands, the European Commission against Racism and Intolerance (ECRI) expressed concern about this situation and recommended that the Dutch authorities address any exploitation of agency workers who are not permanently resident in the Netherlands, *inter alia*, by tightening the control of employment agencies.²⁴

74. In their comments on the draft report, the Dutch authorities have indicated that in order to deal with rogue employment agencies, a two-year programme was set up in 2012. Enforcement and detection were strengthened through the establishment of an intervention team consisting of the Inspectorate SZW, the Tax and Customs Administration, the Employee Insurance Agency (UWV) and municipalities. A hotline was set up which can be used to report rogue employment agencies. Agreements have been concluded with Poland, Romania and Bulgaria to exchange data on rogue employment agencies. Furthermore, the government will seek to amend the Minimum Wage Act so as to limit expenses an employer can deduct from the minimum wage and to prohibit the payment of the minimum wage in cash. In addition, the Foundation for Labour Standards (SNA), which delivers quality standard marks, will improve and increase its monitoring of employment agencies.

²⁴ ECRI report on the Netherlands (fourth monitoring cycle), CRI(2013)39, paragraphs 76-79, published on 15 October 2013.

75. **GRETA invites the Dutch authorities to:**

- **continue and further strengthen their efforts against human trafficking for the purpose of labour exploitation, including by doing more to raise awareness of this type of trafficking among professionals (such as policemen, prosecutors, judges, labour inspectors, municipalities and trade unions), in high risk sectors (e.g. agriculture, horticultural, catering, dock work, meat processing and construction), as well as among the public at large;**
- **further restrict employment contracts with benefits in kind and tighten regulations on employment agencies.**

76. No clear picture as to the scope of child trafficking in the Netherlands can be obtained as there is no strict obligation to notify all possible child victims to CoMensha, even though such an obligation exists for adult victims. Moreover, reports made are allegedly not always accurate enough, presumably for lack of proper training of agencies dealing with child support. There is nonetheless an upward trend as the number of notified possible child victims of trafficking rose from 104 victims in 2006 to 223 in 2012. With regard to support and assistance, the standard framework of child protection applies to child victims of THB with the exception of the protected reception centres which have been set up for unaccompanied foreign minors at risk of being trafficked (see paragraph 163). Efforts have also been made in favour of girls who fall victim to “loverboys” (see paragraphs 166 and 167). However, civil society and the National Rapporteur have urged the authorities over the last years to adopt a more targeted approach, adapted to the special needs of child victims of THB. In their comments on the draft report, the Dutch authorities have referred to an initiative announced by Youth Care the Netherlands in January 2014 to enhance co-operation with youth care organisations in order to improve help and support for child victims. A study is currently being made to better assess the effectiveness of interventions for child victims. As part of plans to introduce a national referral mechanism (see paragraphs 150 and 170), special attention is said to be paid to child victims and the National Rapporteur and Youth Care the Netherlands are currently examining guidelines for the registration of child victims. **GRETA considers that the Dutch authorities should continue developing a proactive approach taking full account of the particular vulnerability of child victims of trafficking, in accordance with the best interests of the child.**

ii. Training of relevant professionals

77. According to the Dutch authorities, police forces are periodically assessed in order to ensure that each regional police unit meets a number of requirements; these include having a senior officer specialised on THB, a good level of knowledge of THB and policies on how to approach victims. A police reference framework on THB makes it compulsory for police officers to be specifically trained and certified to be entitled to take evidence from presumed victims of THB. Between 2004 and 2012, the Dutch Police College trained over 1 200 policemen for the certificate in prostitution supervision and trafficking in human beings. This certification programme will continue running in the years to come.

78. The training programme on THB for members of the police includes the following modules: communication skills; different types of victims; initial assessments and reports; and provision of assistance. It covers different forms of exploitation and particular attention is devoted to child victims and how to detect them. The Dutch Police College also provides a two-day course entitled “Insight into trafficking in human beings” and training sessions via the internet. At the regional level, training is organised for all operational staff member to enable them to identify possible trafficked victims. The LEM has developed a training programme for this purpose. Upon request, the EMM can provide training/information sessions not only to police officers, but also to NGOs, the Chamber of Commerce and the COA, focusing on the detection of signs of trafficked victims based on recent developments. In some regions, a training module on trafficking in human beings has been included in the police’s Integrated Professional Skills Training, which every police officer has in principle to follow each year.

79. Members of the KMar follow a fast-track six-day training programme for certification at the Dutch Police College. Further, the KMar covers THB within the framework of its own initial training programme, as well as practical training in KMar brigades. Each KMar member is provided with a booklet on signs of THB. All procedures concerning dealing with human trafficking and people smuggling are laid down in the Royal Netherlands Marechaussee Operational Shopfloor Activities, which every KMar officials can consult. In addition, the KMar organises training on interviewing methods, including with children. In her 8th report, the National Rapporteur indicated a shortage of certified officials from KMar able to deal with victims of THB. The Dutch authorities have indicated that 15 KMar qualified staff are used for interviewing trafficked victims, while more staff are qualified but not currently assigned to that function. In 2014 the KMar will start its own training programme with the aim of training 40 officers on interviewing trafficked victims the first year, and 30 the following years.

80. All public prosecutors receive basic training on human trafficking as part of their compulsory training programme at the Training and Study Centre for the Judiciary (SSR). Each district has a prosecutor specialised on THB, who follows an additional compulsory training module that includes a further course on trafficking, as well as courses on topics such as cross-border investigations and serious organised crime. Prosecutors who will become specialised on trafficking in human beings also undertake an additional compulsory training curriculum. They further their expertise through regular meetings with the National Public Prosecutor on Human Trafficking (see paragraphs 26 and 66).

81. Trafficking in human beings is not part of the compulsory initial training of judges. Judges can choose to attend a two-day training session on human trafficking at the SSR as part of their compulsory ongoing training. However, a special course for judges on THB has been developed as the specialisation of a number of judges on THB is now encouraged (see paragraph 67).

82. The IND holds internal training sessions on human trafficking that form part of its ongoing training programme. Trained IND officials deal with applications under the Residence Regulation for THB. Furthermore, the MIG (see paragraph 29) is composed of trained staff that in turn provide training on THB for other colleagues within the IND. Staff from the Custodial Institutions Agency (DJI), which comes under the Ministry of Security and Justice, are trained to recognise signs of human trafficking among persons placed in detention centres for irregular migrants, including by the NGO FairWork regarding victims of trafficking for labour exploitation. Staff dealing with asylum procedures are also trained to detect signs of possible victims of trafficking.

83. Insofar as the Inspectorate SZW is concerned, in 2010, 18 criminal investigators followed a four-week training programme provided by the International Centre for Migration Policy Development (ICMPD) on identification and how to deal with possible victims of human trafficking. In 2011, eight criminal investigators followed the training programme provided by the Dutch Police College to obtain certification in accordance with the Directive on investigating and prosecuting the crime of human trafficking of the Board of Prosecutors General, and all criminal investigators involved in labour market fraud were trained in the recognition of signs of labour exploitation. In 2012, 11 criminal investigators followed the new course entitled "Approach towards tackling THB for other forms of exploitation" at the Dutch Police College in order to obtain certification. At the end of 2013, another six criminal investigators started the course. This course will continue running in 2014.

84. In 2012 the Ministry of Security and Justice commissioned the Netherlands Centre for Social Development (Movisie) to provide training on "loverboys" in order to increase knowledge and skills of staff in youth care centres. The training programme was completed in 2013 and a report of the findings was produced.

85. In May 2013, the 12 local branches of the Chamber of Commerce started reporting observations on human trafficking, labour exploitation and bogus self-employment to the EMM. Desk clerks from the Chamber of Commerce have been trained on detecting signs of trafficking when they register self-employed persons without employees. A contact person for reporting signs of THB to the EMM has been designated in each branch of the Chamber of Commerce.

86. At municipal level, the Dutch authorities have reported that training modules on THB for municipal officials were to be developed by the Ministry of Security and Justice. The Centre for Crime Prevention and Safety (CCV) and the RIECs have for a number of years held sessions to promote awareness of THB for municipalities across the country. So far, many municipalities have mainly focused on fighting THB for sexual exploitation. To make municipalities more aware of and informed about labour exploitation, the CCV was asked to develop an information campaign on labour exploitation and to organise regional meetings in 2013. The Dutch authorities have reported that many municipalities also train their front desk staff who are assigned to register persons taking up residence in the municipality to recognise signs of THB (e.g. too many people are living in one house or the same person brings young women who do not speak the language to register). In Amsterdam, front desk staff are given a card listing signs of THB, which also contains a number they can call to report signs.

87. As part of an EU funded project involving several states, including the Netherlands, to develop guidelines for first-level identification of victims of trafficking (EuroTrafGuid project), representatives of 10 Dutch governmental and non-governmental organisations took part in sessions in June 2013 to learn how to train others to use the materials developed by the project. Plans are being made to implement the use of these materials within the Netherlands. For example, the IND plans to train 1 200 employees in 2014 and a large train-the-trainer session is planned in June 2014.

88. Furthermore, the NGO Soa Aids Nederland has developed a guideline for medical professionals to promote awareness of THB and advice on how to act in case of signs of THB.

89. GRETA welcomes the efforts made in the Netherlands to train different professionals on issues related to human trafficking and invites the Dutch authorities to maintain their efforts, in particular concerning the training of judges, labour inspectors and local actors. 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, to assist and protect them, to facilitate compensation for victims and to secure convictions of traffickers.

iii. Data collection and research

90. The human rights-based approach to anti-trafficking policies advocated by the Convention requires adequate monitoring and evaluation. An essential element is the regular availability of comprehensive statistical information on both trends in human trafficking and the performance of the main actors in the fight against trafficking. The collation of data from different state institutions and NGOs raises concerns about data protection, especially when personal data are involved. International standards have been set for the collection, storage, transfer, compilation and dissemination of data. In order to ensure full compliance with these standards, Parties are expected to apply appropriate measures and techniques of data protection. An additional requirement for human rights-based anti-trafficking policies is the conduct of research and analysis with special attention to the rights and interests of victims.

91. In the Netherlands, the collation of statistical data on human trafficking is entrusted to the National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children with the support of the NGO CoMensha.

92. CoMensha registers all presumed trafficked persons in the Netherlands and receives a government subsidy for this purpose. CoMensha publishes regular reports of the data on victims on its website.²⁵ It collects information on trafficked victims and the nature of trafficking. Pursuant to Chapter B8-3 of the Aliens Act 2000 and a factsheet of the Board of Prosecutors General based on its Directive on investigating and prosecuting the crime of human trafficking, the police and the KMar are required to notify presumed victims to CoMensha. However, while other actors coming into contact with presumed victims, such as the Inspectorate SZW, NGOs, shelters, lawyers, social workers or youth care centres, should normally report them to CoMensha, they are under no formal obligation to do so. In their comments on the draft report, the Dutch authorities have indicated that the setting up a national referral mechanism (see paragraphs 150 and 170) was expected to improve registration as it should raise awareness among all relevant stakeholders. **GRETA invites the Dutch authorities to continue exploring ways of encouraging all stakeholders to report presumed victims of THB to CoMensha in order to have comprehensive statistics on all victims in the country, including children, and to secure adequate funding for CoMensha to perform this task.**

93. The National Rapporteur and her office collect information from persons, organisations and institutions active in the anti-trafficking field. Information on victims is obtained from CoMensha while information on prosecution and trials is provided by the OM, information on residence permits by the IND, information on compensation by the Central Fine Collection Agency, and quantitative data by the Departure and Repatriation Service (DT&V), IOM and the Violent Offences Compensation Fund. As indicated in paragraph 61, the National Rapporteur has access to police files and those held by the OM. Detailed trafficking data is included in the reports regularly published by the National Rapporteur, as well as in other publications, all available online.²⁶ GRETA welcomes the data collection on human trafficking in the Netherlands, which represents a unique tool to inform anti-trafficking policies.

94. The National Rapporteur and her office, which includes five researchers of various backgrounds (including lawyers, criminologists, anthropologists and psychologists) working on trafficking, are actively conducting research in various fields related to THB. As already mentioned in paragraph 65, the National Rapporteur publishes in-depth reports examining the anti-trafficking framework as well as other targeted reports on specific themes. By way of example, a study on human trafficking for the purpose of the removal of organs and forced commercial surrogacy was published in 2012. A report entitled “Trafficking in Human Beings. Visible and Invisible. A quantitative report 2007-2011”, a report on prosecution and trials of traffickers as well as an analysis of the case-law from 2009 to 2012 were also published in 2013.

95. In addition, a significant amount of research is carried out by research institutes and NGOs. Recent examples include a report on child trafficking in the Netherlands published in 2013 by Defence for Children, ECPAT and UNICEF which gives a detailed account of the situation of child victims in the Netherlands,²⁷ and an in-depth study on trafficking victims in the Netherlands published in 2013 by Intervict (International Victimology Institute Tilburg).²⁸ GRETA considers that the question of human trafficking for the purpose of forced begging or petty crimes which affects predominantly children, particularly of Roma origin, deserves further research in the Netherlands as this phenomenon has been witnessed in neighbouring countries where transnational networks have been operating and moving children from one country to another.

96. **GRETA welcomes the research on THB carried out in the Netherlands and invites the Dutch authorities to continue conducting and supporting research on THB issues as an important source of information for future policy measures.**

²⁵ www.comensha.nl

²⁶ www.dutchrapporteur.nl (in English) or www.nationaalrapporteur.nl (in Dutch).

²⁷ van den Borne A. and Kloosterboer K. (2005), *Investigating exploitation – Research into trafficking in children in the Netherlands*, ECPAT-Defence for Children and Unicef; Kaandorp M. and Blaak M. (2013), *Child trafficking in the Netherlands – the combat of trafficking in minors in the Netherlands and the protection minor victims*, ECPAT-Defence for Children.

²⁸ Rijken C., van Dijk J.J.M. and Klerx-van Mierlo F. (2013), *Trafficking victims in the Netherlands – An exploratory study*, Intervict, International Victimology Institute Tilburg.

iv. *International co-operation*

97. 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).

98. The Netherlands is party to a number of international treaties which provide a framework for cross-border co-operation in the area of trafficking in human beings.²⁹ Relevant EU instruments³⁰ as well as bilateral agreements³¹ also play a role in co-operation on THB-related matters.

99. A number of provisions in Dutch law are aimed at facilitating international co-operation in criminal matters, such as Article 552qa of the CCP which makes it possible to set up joint investigation teams (JITs) based on a treaty; Articles 552qc and 552qd of the CCP, which make it possible to exchange documents and other data within JITs; Articles 552t through to 552iie of the CCP, which make it possible to take over and transfer criminal proceedings; and the Directive for international joint investigation teams (2008A007) of the Board of Prosecutors General.

100. The Dutch authorities can spontaneously provide information, without prior request, to the authorities of another country if the disclosure of such information might assist the receiving country in initiating or carrying out investigations or proceedings concerning criminal offences established in accordance with the Convention. The Treaty of Schengen provides for the possibility to submit information to a police official in another EU Member State without a request (Article 46).

101. Combating THB is a priority for Benelux and, in 2012, a conference on the role of local governments in fighting THB and the supervision of the sex industry was organised during the Dutch chairmanship.

102. The conduct of investigations involving trafficking in human beings and the establishment of JITs within the EU is co-ordinated through the European Multidisciplinary Platform against Crime Threats (EMPACT) project on trafficking in human beings, which is co-led by the Netherlands. To date, 25 EU states take part in this project, as well as Frontex, Europol, Eurojust, the European Police College (CEPOL) and Interpol. According to the Dutch authorities, this helps better understand networks that operate across borders, which can lead to JITs between multiple countries. In connection with this, co-ordination with the relevant investigation services and the national EMPACT co-ordinator on trafficking in human beings takes place within the Netherlands. Within the framework of EMPACT, Hungary has strengthened operational co-operation with the Netherlands, and in 2013 the Dutch police concluded a bilateral operational action plan with the Hungarian police. The collaboration with Bulgaria and Romania is also co-ordinated within the framework of the EMPACT project. Since 2009, the Dutch authorities have participated in four JITs with Bulgaria and two with the United Kingdom. Other JITs have been set up and are still ongoing.

²⁹ United Nations Convention against Transnational Organized Crime; Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime; European Convention on Extradition (ETS No. 24); the European Convention on Mutual Assistance in Criminal Matters (ETS No. 30), the protocols to these (ETS Nos. 86, 98, 99 and 182); the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (ETS No. 141).

³⁰ Europol Council Decision, 2009/371/JHA, 6.4.2009; Eurojust Council Decision, 2009/426/JHA, 16.12.2009; Prüm Council Decisions, 2008/615/JHA and 2008/616/JHA, 23.6.2008; Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union; Council Framework Decision on simplifying the exchange of information and intelligence between law enforcement authorities of the Member States of the European Union; Council Framework Decision on the European arrest warrant and the surrender procedures between Member States; Convention implementing the Schengen Agreement of 14 June 1985.

³¹ Benelux Treaty concerning Cross-Border Police Intervention (Senningen Treaty), Trb. 2005, 35, 8.6.2004; Treaty between the Netherlands and Germany concerning cross-border cooperation by police and in criminal law matters (Treaty of Enschede), Trb. 2005, 86 and 241, 2.3.2005.

103. The Dutch authorities estimate that around half of the investigations relating to human trafficking have involved some form of international co-operation. Since January 2013, the Netherlands has a memorandum of understanding with Romania on organised crime, including THB. Outside Europe, a memorandum of understanding has been concluded with China and bilateral co-operation is being strengthened with the Philippines with a view to increasing exchange of information around cases of exploitation of Philippine seafarers.

104. The Netherlands is also actively engaged in non-operational international co-operation in the anti-trafficking field. Several co-operation programmes have been funded by the Dutch authorities in recent years. One was run in Bulgaria, in 2009-2010, to provide technical assistance and training to the law enforcement authorities. A project carried out in Bulgaria between 2008 and 2010 by NGOs and the Bulgarian National Commission for Combatting Trafficking in Human Beings with Dutch financial support resulted in the development of a national referral mechanism in Bulgaria. Another programme is being developed for the training of legal professionals involved in financial investigations and asset recovery in connection with trafficking. Beyond Europe, a project was run in Nigeria from 2009 to 2010, which consisted of training sessions led by experts from Dutch law enforcement agencies to personnel from the National Agency for the Prohibition of Trafficking in Persons (NAPTIP) and other Nigerian agencies. Another three-year programme was launched in 2011 in Nigeria to pursue training on law-enforcement aspects and to promote a victim-centred approach. Further, an awareness-raising campaign against trafficking of women and children in Mozambique was funded between 2009 and 2012.

105. In addition, the Netherlands contributes to the funding of capacity building projects through international organisations, such as the EuroTrafGuID project referred to in paragraph 87 or the ICMPD project for the training of 14 countries of Central and South Eastern Europe on preventing, investigating and prosecuting labour trafficking with a special emphasis on the role of labour inspectors (see paragraph 87). The Netherlands has also organised two international conferences bringing together practitioners from government agencies from different European countries, the first in 2010 on how to combat human trafficking for the purpose of labour exploitation more effectively, and the second in 2013 – co-organised with Poland and Cyprus – on how to draw lessons from the European Court of Human Rights' Rantsev judgment and to strengthen multidisciplinary operational co-operation. In addition, the Netherlands contributes to the ILO's Decent Work Agenda (14 million euros were contributed for 2012-2013 and 7 million euros have been earmarked for 2014-2015).

106. **GRETA commends the efforts made in the area of international co-operation and invites the Dutch authorities to continue developing international co-operation with a view to preventing human trafficking, assisting victims of trafficking, and investigating and prosecuting human trafficking offences, including through exploring further possibilities for co-operation with governmental and non-governmental actors in countries of origin and transit.**

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

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

a. Measures to raise awareness

108. In January 2006 a national campaign was launched under the name “Schijn Bedriegt” (“Appearances deceive”) with the aim of raising awareness of victims of THB among the general public and more specifically among clients of prostitutes. The campaign accompanied the launching of the hotline “Report Crime Anonymously”, which enables callers to report indications of trafficking without giving their names. The campaign was repeated nationwide in 2008 and in Amsterdam in 2010. In 2012, a new national campaign with the hotline “Report Crime Anonymously” was launched online exclusively (e.g. through banners placed on national and local erotic websites). According to the Dutch authorities, after 10 months of campaign, there has been a significant increase of calls concerning forced prostitution³², 83% of cases were investigated and led to 12 arrests (corresponding to one in nine cases). A total of 150 000 euros was devoted to the 2012 campaign and another campaign in 2013.

109. In 2012, the police carried out a campaign in hotels to raise the awareness of hotel staff of signs of trafficking for forced prostitution and provide them with indicators on how to recognised signs of trafficking. Workshops were organised throughout the country and a DVD entitled “Please, disturb” was produced as part of the campaign.

110. The Dutch authorities have designed a set of preventive measures to combat the phenomenon of “loverboys”, including:

- information material directed at potential victims, parents and schools, which was made available via websites and through the Centre for School and Safety;
- an awareness-raising campaign targeting potential victims in 2010 by the police of Rotterdam-Rijnmond. As part of the campaign, a rap song about trafficking was performed in schools;
- consultations provided free of charge and, if so desired, anonymously by the local Public Health Departments for young people in all parts of the country, in which the emphasis is placed upon self-assertiveness and sexual violence;
- training to prevent youth prostitution, organised by NGOs for social workers and workers engaged in prevention, police officers, local and provincial governments and schools;
- websites (such as www.helpwanted.nl), where young people can chat with social workers or receive e-coaching on topics such as “loverboys”, online sexual abuse or relationships;
- the Netherlands Youth Institute (NJI) and the Centre for Healthy Living that forms part of the National Institute for Public Health and the Environment (RIVM) contain data bases with good practices of initiatives to empower children at risk of falling prey to “loverboys”.

³² The number of reports reached 48 in 2010, 71 in 2011 and 115 in 2012. During the campaign which ran from July 2012 to May 2013, the number of reports was comparatively higher than in 2011 and reached 104.

111. The Dutch authorities have also taken a number of initiatives to raise awareness of labour exploitation and trafficking. The Ministry of Social Affairs and Employment published in 2010 an information card entitled “Work and Exploitation”,³³ available in 14 languages, and another one entitled “New in the Netherlands”, also available in several languages, to provide migrant workers with information on signs of exploitation and where they can go for help. In 2010 a leaflet on labour exploitation with contact information of relevant organisations was published by the Inspectorate SZW. Those initiatives were funded by the Ministry of Social Affairs and Employment for a total of 100 000 euros in 2010, 125 000 euros in 2011 and 75 000 euros in 2012.

112. Since 2011, the above-mentioned information card “Work and Exploitation” has been used in three pilot projects of the Chamber of Commerce, focusing on bogus self-employment and labour exploitation. Self-employed workers are meant to register with the Chamber of Commerce. In January 2014, a website was launched in order to help anyone concerned in determining whether they are self-employed or not, thus helping to prevent bogus self-employment. In case of uncertainty, the Tax and Customs Administration may be consulted by filling in a form and giving information on the activities performed in order to establish whether it is a situation of self-employment or not.

113. In addition, other activities have taken place to raise awareness of trafficking for the purpose of labour exploitation:

- from June to December 2010, an awareness-raising campaign on signs of possible exploitation and targeting the general public, employers and employees in high risk sectors and municipalities was run. It consisted of a banner on websites relating to a number of sectors (such as the construction sector), an advertisement distributed via Google and an article that appeared in a number of free local papers and on their websites, in regions where a large number of migrants are active in the agriculture and horticulture sectors;
- in 2010 and 2011, the Inspectorate SZW held information sessions for municipal inspection services (such as building control, fire safety and public order), in order to help them recognise and report cases and victims of labour exploitation;
- in 2011, a television series entitled “De Slavernij” (“Slavery”) was broadcast. With the assistance of the Inspectorate SZW, the series also devoted attention to the exploitation of workers;
- in 2009 CoMensha organised an awareness campaign called: “Do you ever wonder about (labour) exploitation? Don’t close your eyes for human trafficking!” In 2010 and 2011, a Dutch actor and comedian, Viggo Waas, supported this campaign. A special conference organised by CoMensha in December 2010 focused on victims of labour exploitation and their needs.

114. In January 2012, the Ministry of Social Affairs and Employment sent a letter to foreign embassies in the Netherlands, containing information about how their nationals could report signs of labour exploitation, a list of signs that could indicate employment agencies using illegal practices and a list of indicators of labour exploitation. In May 2012, the Ministry of Foreign Affairs and the Ministry of Security and Justice organised a meeting for the embassies and consulates of 22 of the most important source countries of trafficked victims with a view to presenting the Dutch anti-trafficking policies and encouraging these countries to share information on possible human trafficking cases with Dutch law enforcement agencies. The information sent to the embassies was also sent to the CCV for distribution to municipalities taking part in regional awareness-raising meetings. At those meetings, the CCV also calls attention to labour exploitation, with the assistance of the Inspectorate SZW.

³³ This information card can be ordered or downloaded from the internet at: www.rijksoverheid.nl/documenten-en-publicaties/brochures/2011/07/08/exploitation-at-the-workplace-arbeid-en-uitbuiting-engels.html. A similar information card entitled “Prostitution and Exploitation” (“prostitutie en uitbuiting”) has also been developed and made available in 14 languages at: www.rijksoverheid.nl/documenten-en-publicaties/brochures/2011/07/08/prostitutie-en-uitbuiting-engels.html.

115. **GRETA welcomes the considerable efforts made in the Netherlands in the area of awareness raising as a form of prevention of THB and invites the Dutch authorities to plan future actions in the light of the assessment of the impact of previous awareness-raising measures.**

b. Measures to discourage demand

116. In accordance with the Convention, measures to discourage demand for the services of victims of trafficking, especially women and children, should be understood as a positive obligation on Parties to adopt and reinforce such measures as regards THB for the purpose of any form of exploitation (see paragraph 108 of the Explanatory Report of the Convention). As it is stated in the Recommended Principles and Guidelines on Human Rights and Human Trafficking, strategies aimed at preventing THB shall address demand as a root cause of trafficking.³⁴

117. The Dutch Government has prepared a draft bill aiming at tightening the regulation of prostitution (Bill to Regulate Prostitution and to Combat Abuses in the Sex Industry). According to the draft, running any type of establishment in the sex industry will be subject to obtaining a licence, employers who do not comply with licensing requirements will risk losing their licence and those who do not have licence and run a business in the sex industry will be liable to prosecution. The bill also proposes to increase the minimum age for prostitution from 18 to 21. A licensing system is already run in a number of big municipalities such as Amsterdam, and the bill therefore proposes to harmonise practices. The Bill was discussed in the senate in 2013 and the government was asked to present an amended Bill on certain aspects, which was resubmitted on 3 March 2014. The Dutch authorities expect the stricter regulations to have a strong deterrent effect on traffickers and help prevent exploitative practices. Before entry into force of the new law, an assessment of the situation will be made, followed by another assessment five years on.

118. There is no specific provision criminalising the use of services of a victim of THB with the knowledge that the person is a victim of THB as provided for in Article 19 of the Convention, but other provisions of the CC may be applied in certain cases (see paragraph 211). **GRETA considers that the Dutch authorities should strengthen their efforts to discourage demand for the services of trafficked persons, for all forms of exploitation, in partnership with the private sector and civil society.**

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

119. As mentioned in paragraph 104, the Netherlands has funded a number of projects in countries of origin of victims of trafficking, in Europe (most recently in Bulgaria, Romania and Hungary) and beyond (in particular in Nigeria).

120. At the national level, the "Exit Programmes for Prostitutes Scheme" was drawn up in 2008 by the then Ministry of Justice to provide support to persons who want to stop working as a prostitute. They are assisted in finding an alternative activity (e.g. paid job, studies or volunteer work) and receive social benefits. In addition, a counsellor provides them with assistance to manage their lives and helps them in their contacts with welfare agencies. The Ministry of Justice paid a total of 14.5 million euros in subsidies to encourage municipalities and agencies to set up exit programmes for prostitutes. The scheme expired in 2011 but was taken over by municipalities. In late 2013 a proposal to set up a new "Exit Programmes for Prostitutes Scheme" was accepted by Parliament; 3 million euros per year over four years have been earmarked.

³⁴ Principle 4 of Addendum to the report of the United Nations High Commissioner for Human Rights (E/2002/68/Add. 1), www.ohchr.org/Documents/Publications/Traffickingen.pdf

121. A national programme against the exploitation of Roma children was launched in 2011; it involved the VNG, the Child Protection Board, Youth Care the Netherlands, the OM, the Police, the Ministries of Security and Justice, Social Affairs and Employment, and Foreign Affairs. This programme aims at addressing, *inter alia*, the participation of children in criminal activities, exploitation of children and forced marriage of underage girls, through (i) knowledge improvement, (ii) pilot projects in four municipalities to solve concrete problems faced by Roma families, and (iii) European co-operation, including through the Council of Europe Ad hoc Committee of Experts on Roma Issues (CAHROM), to exchange information and share good practices to combat better transnational child trafficking as well as deal with push and pull factors between countries. This programme came to an end in December 2013 and a follow-up programme is currently being developed. The Dutch Police College also produced an information document on problem families with a Roma background for social workers and law enforcement officials as part of this wider process.

122. As regards unaccompanied foreign children, who constitute a category particularly vulnerable to human trafficking, the Dutch authorities have indicated that in the special care shelters where they are placed they have access to education and other activities to empower them and avoid that they fall prey to human traffickers (see paragraph 164).

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

123. In the Netherlands, border control is entrusted to the KMar.³⁵ The KMar has issued a booklet with specific indicators to detect possible victims of human trafficking as part of routine border control. All signs of trafficking are reported to the EMM. In addition, the KMar has set up a specialised team, known as Filter Team (*Sluisteam*), at Amsterdam Airport Schiphol, where the KMar has overall responsibility for law enforcement. It is composed of three senior investigators and 18 investigators. Members of the Filter team are deployed so as to identify and take action against trafficking and people smuggling at an early stage, through observation at the airport as well as by information analyses.

124. From December 2010 to May 2011, the KMar, the OM and the EMM ran a pilot project targeting cross-border human trafficking for sexual exploitation. The objective was to enable the KMar and the OM to take rapid action in case of breach of Article 273f(1), subparagraph 3 of the CC, which provides that taking a person into another country with the intention of causing that person to work in prostitution forms a punishable offence (see paragraph 48). The pilot was considered successful and has since been expanded.

125. The WODAN II project currently run in Eindhoven Airport is based on observations of passenger flows and on analysing criminal investigations and other sources of information, modus operandi and criminal associations that have been mapped out. The Dutch authorities have indicated that this has already led to criminal investigations into human trafficking.

126. The KMar also makes use of profiles of victims and suspected perpetrators of human trafficking and people smuggling that have been drawn up on the basis of previous trafficking cases. The profiles are regularly updated. Checks are carried out depending on travel route, mode of transport and/or the composition of the travel group.

127. In October 2011 a bulletin prepared by the KMar and CoMensha was published and distributed during training sessions to raise awareness of airline personnel on signs of THB and to inform them of the need to report any suspicions of trafficking to the KMar.

³⁵

In the Port of Rotterdam, border control is entrusted to the Seaport Police.

128. The IND has temporarily deployed staff to various diplomatic posts of the Netherlands abroad, in order to assist embassy and consulate staff in recognising document fraud. The IND has also posted Immigration Liaison Officers (ILOs) at 12 diplomatic missions, their primary role being to prevent irregular migration to the Netherlands and Europe. ILOs advise and provide training to airline companies and immigration services on travel documents, visa regulations and traveller profiles. They also facilitate and investigate possibilities of repatriation. Signs indicating trafficking are communicated to the MIG within the IND.

e. Measures to ensure the quality, security and integrity of travel and identity documents

129. The Ministry of the Interior and Kingdom Relations is responsible for the quality, security and integrity of Dutch identity documents. The Expertise Centre for Identity Fraud and Documents (ECID) of the KMar, which is responsible for border controls (see paragraph 31), provides expertise and support for other agencies. The ECID also works in close co-operation with the police and the IND. Training courses are organised by the ECID for other governmental bodies. All operational staff of the KMar receive specific training in the recognition of false or counterfeit documents as part of their initial training. A special unit, the Documents Bureau, has been set up within the Immigration and Naturalisation Service, which deals for instance with residence permits and asylum applications.

130. Dutch travel documents incorporate biometric data in accordance with relevant EU law. Pursuant to Regulation (EG) No. 380/2008, residence documents issued to foreign nationals include a microchip containing a facial scan. The Netherlands has also developed tools to detect false or counterfeit documents, such as the EDISON system and DISC (Document Information System Civil Status) which contain information on the authenticity of documents, and also uses FADO (False and Authentic Documents Online), which is a European image-archiving system of travel and identity documents.

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

a. Identification of victims of trafficking in human beings

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

132. In the Netherlands, the framework for the identification and protection of victims of human trafficking is provided for in the Aliens Decree 2000 and Aliens Circular 2000, which apply to foreign victims or witnesses who do not hold a valid residence permit, allowing them to stay in the Netherlands. Other relevant texts include a factsheet based on the Board of Prosecutors General's Directive on THB and the National Police's reference framework which contains guidelines for identification and protection. However, there is no formal identification process common to all possible victims irrespective of their nationality and immigration status.

133. Chapter B8-3 of the Aliens Circular 2000, which derives from the Aliens Decree and is referred to as the Residence Regulation for THB,³⁶ regulates the stay of possible victims of human trafficking in the Netherlands (reflection period and temporary residence permit) and determines their access to specialised assistance (i.e. shelter, social assistance and medical care). It applies primarily to non-EU nationals but also to EU, European Economic Area (EEA) and Swiss nationals where they do not derive a right to stay in the Netherlands from other instruments. Pursuant to the Aliens Circular 2000, suspending deportation or granting a temporary residence permit is justified by the importance of enabling victims who report an offence or co-operate with the investigation to remain in the Netherlands for the purpose of the prosecution of the offenders. GRETA notes that the link with the criminal investigation and prosecution is thus given central importance.

134. The police and KMar are the sole bodies responsible for determining whether a person is a possible victim of THB deserving protection within the framework of the Residence Regulation for THB. As soon as there is the “slightest indication” that a foreigner is a victim of human trafficking, law enforcement officers must inform the presumed victim about the possibility of benefiting from the three-month reflection period provided for by the Residence Regulation for THB (see paragraphs 177 and following). This does not require a formal statement or declaration by the possible victim, but law enforcement officers have to interview the person concerned as soon as possible in order to determine whether, in the light of the indicators drawn up in the above-mentioned factsheet based on the Directive on THB of the Board of Prosecutors General (see paragraph 226), the person concerned could be a victim of THB. The protection under the Residence Regulation for THB starts from the moment the law enforcement authorities notify a possible victim to the IND, which is responsible for granting the reflection period. The police and KMar have to notify every possible victim they identify to the NGO CoMensha which will register the possible victims, find them an appropriate shelter and initiate assistance measures.

135. Therefore, it is entirely left to law enforcement officers to decide whether a person can be considered to be a possible victim deserving protection under the Residence Regulation for THB with access to the reflection period and assistance. In practice, law enforcement officers may seek advice from the OM or NGOs, but they are under no obligation to do so. Law enforcement officers who identify possible victims are meant to have followed a three-month training course on identification. According to civil society interlocutors, the fact that the law enforcement authorities alone decide whether someone should benefit from protection under the Residence Regulation for THB gives the whole process a criminal-law bias which is to the detriment of the victims’ need for adequate assistance and protection. Given that the Residence Regulation for THB is the framework within which special assistance and residence permits can be accessed, the identification of the “slightest indication” of possible victim of human trafficking by the law enforcement officers is crucial.

136. The Dutch authorities have stated that a complaint can be filed by the person concerned against the refusal by the police to confirm that he or she is a victim of THB, in accordance with the complaints procedure set out in the Police Act and the General Administrative Law Act. The police have 10 weeks to examine the complaint. An appeal is then possible before an independent commission which has to decide within 14 weeks. Finally, an appeal can be lodged with the National Ombudsman. It is however not clear whether the person would be given leave to stay during this appeal. The authorities have indicated that a person can appeal against the refusal to be granted a residence permit and ask the competent court for an injunctive relief and stay legally in the country on this basis.

137. Frontline civil society organisations have also expressed concern that possible victims are not always able to provide sufficient information at such an early stage as the initial interview with the police. This is particularly true in connection with labour exploitation where victims do not necessarily fully realise that they have been in an exploitative situation, or with child victims who are sometimes too traumatised to give reliable information.

³⁶ The relevant chapter of the Aliens Circular 2000 was before a recent renumbering Chapter B9, which explains that it was previously commonly referred to as the B9 Regulation.

138. In recent years, there has been a political controversy about access to the Residence Regulation for THB which was said to be abused by individuals who were not victims of THB in order to stay in the Netherlands. Among the measures announced to combat this alleged abuse of the Residence Regulation for THB are the revocation of the temporary residence permit as soon as a prosecutor decides not to prosecute, intensifying prosecution of false declarations of possible victims, and the abolishment of the reflection period for victims who have been out of the exploitative situation for more than three months (see paragraph 179). The first two measures, have been implemented. The implementation of the last proposed measure will depend on the outcome of research being carried out in the misuse of the residence regulation. To date, no figures have been produced to support this assertion but, according to many interlocutors from civil society, this has led to a climate of suspicion towards victims of trafficking as a whole, with the risk of possible victims being left out of the protection afforded by the Residence Regulation for THB. Civil society interlocutors stressed that this has resulted in a general attitude of distrust and suspicion towards possible victims of THB which has a negative impact not only on assistance but also a chilling effect on victims and their willingness to come forward and co-operate with criminal investigations. GRETA is concerned about the reported climate of mistrust towards possible victims of human trafficking that these recent measures have contributed to.

139. Dutch nationals as well as EU nationals who are possible victims of trafficking can be referred to CoMensha by law enforcement agencies, NGOs, health care organisations or any other organisation in order to be provided with a shelter. There is no formal identification of such persons as possible victims of human trafficking, unlike that of foreign victims who come under the Residence Regulation for THB. In their comments on the draft report, the Dutch authorities have contended that in practice the “slightest indication” principle, which formally only applies to foreigners without legal residence in the Netherlands, is applied regardless of residence status.

140. As regards the proactive detection of victims of THB for sexual exploitation, a new strategy of raids in red light districts has recently been conducted in The Hague, Eindhoven and Alkmaar. In all three cases, a whole area has been cordoned off by the police, and all prostitutes have been gathered in a municipal building to be interviewed by police officers in order to detect any possible victims of THB. NGOs, including CoMensha, have been involved in the three raids. Whilst some interlocutors have considered these operations to be positive as they had allowed to detect possible victims, others have said that such raids put far too much pressure on prostitutes who as a result are less inclined to co-operate. GRETA underlines that the welfare of possible victims of THB should always be kept in mind when planning and executing police operations.

141. GRETA was informed of another proactive detection of THB victims in a Chinese massage parlour in The Hague where a raid was organised jointly by the police, labour inspectorate and social services, including an expert familiar with Chinese social behaviour in order to better approach and detect possible victims among the Chinese employees. Guidelines, commissioned by the Task Force, have been developed for all relevant stakeholders on such multi-agency inspections of massage and beauty parlours. In addition, forensic research methods have been introduced to establish whether sexual services were proposed to customers in Chinese massage and beauty parlours. As a result of the inspections, 10 out of 13 Chinese massage and beauty parlours were closed by the mayor of The Hague in 2013 on the basis of the local administrative law on prostitution.

142. As regards human trafficking for the purpose of labour exploitation, criminal investigators of the Inspectorate SZW having the rank of assistant prosecutor can order searches in all premises, including private homes. Members of the Inspectorate SZW are trained on detecting signs of trafficking, including by the specialised NGO FairWork, and figures of detected cases have been on the increase in recent years. If officials of the Inspectorate SZW detect possible victims of THB, they refer them to the competent law enforcement officers so that they can come within the framework of the Residence Regulation for THB and be granted the reflection period whenever they are irregular migrant workers.

143. GRETA has been informed that there is ongoing work to improve the protection of domestic employees in diplomatic households. In their comments on the draft report, the Dutch authorities have reported that since 2011 a number of measures had been taken to protect domestic employees working in diplomatic households. To obtain a visa, the domestic worker has to come in person to the nearest Dutch embassy or consulate. A copy of the employment contract must be submitted, which provides a first opportunity to check if it complies with Dutch labour legislation. After arriving in the Netherlands, domestic workers are invited to come and collect their identity cards at the Ministry of Foreign Affairs' Protocol Department where they are given information on labour rights (such as minimum wage, working hours or continued pay in case of illness). The meeting in the ministry takes place without the employer being present. Domestic employees should also have a separate room in the household and are advised to ask to receive payment of their wages on a bank account. A brochure is also handed to them with information on their rights and telephone numbers which they can call in case of problems. Contact with the ministry takes place every year.

144. As mentioned in paragraph 85, staff from the Chamber of Commerce where self-employees have to register are trained to detect signs of trafficking, and the Chamber of commerce has recently joined the Task Force. GRETA notes that in labour exploitation cases discovered in the last years (in particular those referred to in paragraph 73) the alarm had been sounded by local actors, such as municipalities, health and safety officials or the fire brigade. The identification of victims of THB for the purpose of labour exploitation would therefore gain in involving more directly these actors, as well as trade unions, in line with the "barrier model".

145. As regards possible victims of THB in detention centres for irregular migrants, the Dutch authorities have indicated that efforts have been made over the last five years to train the staff of these centres, with the co-operation of NGOs, on the detection of victims of trafficking. GRETA understands that unlike for other categories of victims, not only the police but also the PPS must agree that there is an indication that an irregular migrant in detention could be a victim of human trafficking for them to benefit from the reflection period and be transferred to a shelter. According to the Dutch authorities' comments on the draft report, consultation with the OM is confined to a telephone call.

146. The Dutch authorities have indicated that DT&V staff are trained on identifying signs of trafficking. In 2012, training was provided by the NGO FairWork for that purpose. DT&V staff hold individual interviews and if indications of trafficking are found, the police is informed so that a more detailed investigation can be carried out, while the return is suspended. The National Rapporteur in her 9th report notes that the number of alerts by the DT&V during the period 2009-2012 shows an improvement in the identification of trafficking victims since the establishment of the DT&V in 2007.

147. There is no identification procedure specific to children who are victims of trafficking. Unaccompanied foreign minors usually follow the asylum procedure which offers immediate protection whereas the process under the Residence Regulation for THB requires co-operation with the police and an ongoing criminal investigation. It appears difficult to gauge the proportion of children that are trafficked within the bigger group of asylum seekers. It has been reported that children were asked by their traffickers to seek asylum upon arrival to obtain leave to stay and that they later disappeared from centres for asylum seekers. The risk of trafficked victims coming under the asylum framework has been underlined by the National Rapporteur in her 9th report published in 2013 and civil society interlocutors have expressed concerns in this respect. Because asylum seekers whose applications have failed transit through the DT&V in order to organise their return, it is important that the DT&V pay increased attention to these persons.

148. The Dutch authorities have underlined that staff from the COA and IND are trained to identify victims of trafficking. Regarding the identification of victims among asylum seekers, the COA has trained its entire staff. Unaccompanied foreign minors are referred to the COA. Other stakeholders become involved in such cases, including the Nidos Foundation, the aliens police, a lawyer, the NGO Vluchtelingenwerk (which assists asylum seekers during their application) and the IND. Legal guardians of minors seeking asylum are trained to recognise signs of trafficking. A project has also been set up, managed by the Nidos Foundation, to improve co-ordination and co-operation regarding child victims of THB.

149. GRETA considers that specialised NGOs and professionals who come into direct contact with possible victims could 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.

150. The Dutch authorities have informed GRETA in their comments on the draft report that they are in the process of developing a national referral mechanism for victims of human trafficking, with specific attention to child victims. This project will cover all victims (Dutch, EU and non-EU; minor or adult; male or female). Identification of victims by a multidisciplinary team is one of the aspects being explored as part of it. **GRETA would like to be kept informed of the development of the national referral mechanism.**

151. **GRETA urges the Dutch authorities to ensure that all victims of trafficking are properly identified and can benefit from the assistance and protection measures contained in the Convention, in particular by:**

- **placing the protection of and assistance to possible victims at the heart of the identification system and not linking identification to the prospects of the investigation and prosecution;**
- **strengthening multi-agency involvement in the decision-making process leading to the identification of victims of trafficking, by giving a formal role in the identification process to frontline actors such as NGOs, labour inspectors, social workers and officials dealing with irregular migrants and asylum seekers;**
- **improving the detection and identification of child victims of trafficking, including by setting up a specific identification mechanism which takes into account the special circumstances and needs of child victims, involves child specialists and ensures that the best interests of the child are the primary consideration.**

152. **GRETA invites the Dutch authorities to continue and further strengthen their efforts to identify victims of trafficking for the purpose of labour exploitation, especially among irregular migrant workers, and to detect victims of trafficking among asylum seekers, in particular unaccompanied foreign minors.**

b. Assistance to victims

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

154. In the Netherlands, the accommodation of possible victims of trafficking depends on several criteria: whether they are irregular migrants benefiting from a reflection period; whether their period of reflection has come to an end and they come under the Residence Regulation for THB; whether they are Dutch nationals or EU nationals regularly in the Netherlands; whether they are unaccompanied foreign minors; and whether they are victims of “loverboys”.

155. In 2010 a two-year pilot project was launched by the then Ministry of Justice and the Ministry of Health, Welfare and Sports with a view to setting up specialised shelters for foreign victims of trafficking to offer them tailored assistance and safety and address a shortage of available shelters for trafficked victims. Upon completion, the project was evaluated positively and the shelters were kept in place. Under this system, foreign victims who have been granted a reflection period, have no previous or current asylum application, and are over 18 years of age are referred to such shelters – known as category-oriented shelters for victims of human trafficking (COSM) – for the duration of the reflection period, i.e. three months (see paragraph 177).

156. There are three organisations providing COSM shelters which, since July 2012, have seen their capacity increased from a total of 50 to 70 places (54 for women and 16 for men): ACM in Amsterdam and PMW in Rotterdam, both for women, and Zorggroep Jade in Assen for men. Entry to the shelters is secured: there are cameras, security personnel at all time and any visitor has to register before entering. In the shelters, victims have access to medical assistance, psychologists, language classes and other activities. They receive 930 euros per month which are placed on the shelter’s account, which is itself subdivided in individual accounts for each victim, and managed with the help of the shelter. Victims are not entitled to work during the reflection period. The Dutch authorities have indicated that, in 2012, the Ministries of the Interior and Kingdom Relations, Security and Justice and Health, Welfare and Sport allocated 2 million euros for COSM shelters.

157. In principle, COSM shelters only accommodate victims during the three-month reflection period. Once it is over, victims who choose to co-operate with the authorities have to move to another shelter or to more open structures – shared flats or houses – depending on a psychological evaluation of their needs that is carried out before their referral to another facility. There is a waiting list managed by CoMensha for access to COSM shelters (as well as other shelters) because of a lack of available beds and also because a number of victims have to stay longer than the three-month reflection period as a result of difficulties in finding another follow-up shelter or facility adapted to their needs. The evaluation of the above-mentioned pilot project confirmed that there were problems of transition between the COSM shelters and follow-up shelters or facilities. It would also appear that there is sometimes reluctance from other shelters and the municipalities funding them in taking victims of trafficking because of their uncertain status, complex background, or the fact that they do not always speak Dutch or English. There does not appear to be any agreement between the state authorities, who fund COSM shelters, and municipal authorities, who fund other shelters, regarding these transfers from COSM shelters to other facilities. The transition to independent living also appears particularly difficult as municipalities do not always make sufficient accommodation available; one of the difficulties resides in the precarious status of victims with a temporary residence permit that can be waived as soon as investigations or prosecutions are dismissed (see paragraphs 187 and following). Care co-ordinators who can be appointed in each region in accordance with the Residence Regulation for THB could play a crucial role in ensuring proper continuity in the assistance provided to victims. GRETA understands that their role varies from one region to the other, and that one region does not have one as yet. Victims who for various reasons decide not to co-operate with the investigation have to leave the country or seek another type of residence permit for humanitarian reasons.

158. In their comments on the draft report, the Dutch authorities have underlined that 20 extra places had been made available in COSM shelters in 2012. When no place can be found, CoMensha must look for an emergency bed in a regular women's shelter for one or two nights. When it comes to victims moving to independent accommodation, the Dutch authorities have indicated that a reference to victims with a residence permit for THB has been included in Article 60a of the Housing Act which means that they are among permit holders for whom a certain number of accommodation places have to be provided each year by municipalities. Since a couple of months, the COA, with the support of CoMensha, mediates between permit holders and a selected number of municipalities. When a permit holder is ready to move towards self-supporting housing, CoMensha refers this person to the COA. When the COA has presented this person to a municipality, the latter has two months to find suitable accommodation.

159. During the evaluation visit, the GRETA delegation visited the COSM shelter for women run in Amsterdam by ACM, which has 27 places funded by the government and an extra seven places paid by the municipality of Amsterdam. There is a team of 14 social workers working in the shelter. Two mornings a week, psychologists from the Equator Foundation³⁷ come to the shelter to provide psychological support to the victims. A number of activities are organised in the shelter, such as Dutch language classes and self-defence classes. ACM works in close co-ordination with the THB team of the Amsterdam Police to ensure that victims are treated appropriately and that meetings between the police and victims take place in the shelter (see paragraph 69).

160. As regards adult victims who cannot go to COSM shelters or who have had to leave them at the end of the reflection period, there are a number of places in 40 shelters run by NGOs in 25 municipalities (for the most, shelters for women victims of violence). Each shelter is selected on presentation of a clear policy as to how they propose to deal with the victims of trafficking they accommodate. Training on human trafficking is organised by the Federation of Reception Centres (FO). Regular meetings are organised with the shelters in co-operation with the VNG and FO.

161. There are currently 16 places for male victims in COSM shelters. From the Dutch authorities' comments on the draft report, it appears that there are currently no signs that the existing capacity for male victims is insufficient as it is not always fully used. In addition, as a result of a pilot project for providing shelters for men, accommodation has been made available for male victims of trafficking in Amsterdam, The Hague, Rotterdam and Utrecht. There are a total of 40 places for male victims of violence in relationships of dependence, including victims of THB. The shelters are funded by the state through the municipalities. During the evaluation visit, the GRETA delegation visited a shelter for men victims of violence in The Hague. It has a capacity of nine beds and can accommodate up to five victims of human trafficking at a time. In 2012, this shelter accommodated 20 victims (two-thirds were victims of sexual exploitation and one-third of labour exploitation). It has a staff of four social workers. However, there appears to be a shortage of places for male victims of THB in this type of shelters. There also seems to be some uncertainty about the future funding of accommodation places for male victims of THB in such shelters.

162. The Dutch authorities have indicated that for victims of labour exploitation who do not need urgent care, a budget of 250 000 euros has been made available for CoMensha to organise temporary shelter at least for the duration of the investigation period. A strategy for large groups of victims, often of labour exploitation, has been devised by the Ministries of Security and Justice, Health, Welfare and Sports, and Social Affairs and Employment, together with CoMensha, according to which the latter is to be contacted in advance of any major action where there is an expected need. This strategy has already been used on nine occasions and on four of them victims were placed in shelters.

³⁷ The Equator Foundation assists traumatised refugees and victims of human trafficking in the Netherlands, and promotes both mental recovery and social integration.

163. As regards unaccompanied foreign minors, a pilot project was launched in 2008 in order to avoid their disappearance and falling victim to trafficking. This project consisted of two protected reception centres with additional security measures, located in remote areas and whose address was kept secret. In 2010 the outcome of the project was considered positive as the level of disappearance of minors was low, but security measures were found too stringent and tantamount to detention.³⁸ This aspect was accordingly relaxed and the two protected reception centres were kept running. The capacity of these centres is of around 60 beds, with some flexibility in case of need. At the time of the evaluation visit, one shelter was accommodating 34 girls and the other 32 boys. The shelter for girls can also cater for teenage mothers and their babies. There is a maximum of two children per bedroom. Children are in principle only allowed to go out under supervision, especially during the first few months. They have to hand over their mobile phones to avoid being contacted by traffickers or contacting traffickers themselves.

164. In these protected shelters, children receive special guidance and support and are informed of the risks linked to trafficking. The shelters have a staff of 12 educators, who are trained to identify signs of trafficking, and a visiting psychologist. There is 24-hour staff supervision, cameras and key cards for the doors. Children are taken to a school outside the shelters where a special programme is organised for them. Childcare is organised to allow teenage mothers to attend school. While in principle they have to go to another shelter once they reach the age of 18, the shelter staff can organise an appointment with the COA – the government agency supervising these two shelters – if it is felt that they need to stay longer. Moreover, children stay in the shelters during the whole reflection period, regardless of whether they turn 18 in the meantime. They are usually referred to the shelters by the Nidos Foundation, which is the organisation providing guardianship for unaccompanied minors, after an interview with the police. Forms are prepared upon arrival of the minor in the shelter so that if he or she goes missing, the form can be transmitted to the police without any delay. All relevant partners (such as the COA, the DT&V, CoMensha, IOM, the IND and the police) meet every six weeks to discuss the situation of the children who are staying in the protected reception centres.

165. The GRETA delegation visited a crisis shelter for girls in Amsterdam run by MEISA, which can accommodate girls between the age of 12 and 17, including victims of trafficking. The total capacity of the shelter is eight places, with up to three which can be used for victims of trafficking. They usually stay up to four weeks. The Equator Foundation can be contacted if special psychological support is needed, as well as ACM to organise certain activities for the girls. The shelter employs 10 social workers working in shifts, a psychologist and a manager. There does not appear to be an equivalent in Amsterdam for boys who are THB victims, and ad hoc solutions have to be found. More generally, child victims who are not accommodated in the protected reception centres are catered for within the framework of the general youth care system.

166. As regards victims of “loverboys”, Dutch victims, who constitute the majority of such victims, are catered for in the shelters for women or youth care facilities. Training by the Movisie institute was planned to improve the assistance provided to such victims. Within the youth care system, there are several shelters and community care projects that provide specific care. JN offers programmes intended to teach vulnerable girls to be more assertive and withstand “loverboys”. These programmes are part of the regular youth care system. If there is a specific need for it, the victims can be put in a closed institution where tailored assistance is provided. In such institutions, victims are not allowed to go out on their own, at least in the first few weeks, or to use their mobile phones in order to sever links with their “loverboys”. A decision by a juvenile judge is needed for such a placement which is for a maximum of one year and is subsequently reassessed.

³⁸ *Between control and support: An evaluation of the pilot “protected reception for UMAs at risk”, Wetenschappelijk Onderzoek- en Documentatiecentrum, Cahier 2010-6.*

167. The NGO Fier Fryslân runs special shelters, known as Asja, for girls and women from 12 to 23 years of age who are victims of “loverboys”, including foreign victims. It is in part funded by the municipality where the shelters are located and partly by the state. There is round-the-clock support, a therapeutic day programme, group therapy and counselling. The shelters’ addresses are kept confidential. Another shelter is co-run by Fier Fryslân and RIWIS in the East of the Netherlands. A total of 24 places are made available.

168. Victims of trafficking are routinely informed about their rights to assistance, protection, compensation, medical assistance and legal advice. They also receive an allowance from the COA of 930 euros per month during the reflection period (see paragraph 156) and, from municipalities, of 700 euros per month once they obtain a residence permit. The difference between these two sums can be explained by the fact that once they hold a residence permit, they have access to the same social protection and allowances as Dutch nationals. In the context of the criminal proceedings, they have the right to receive information about the progress of their case. During hearings, victims may be represented by legal counsel and may bring an interpreter. Victims of violent or sexual crimes who have suffered severe psychological or physical injury are entitled to free legal assistance. In other cases, free legal assistance will depend on the financial means of the victim. In addition, victims have the right to speak at the hearing, to inspect the file and, provided the prosecutor agrees to it, to add documents to that file. Child victims who are not residing regularly in the Netherlands have access to education. Dutch nationals and victims with regular residence in the Netherlands can at all times decide they no longer wish to stay in a shelter and/or receive care. The follow-up offered to victims after they leave a shelter will depend on the specific needs of each of them (e.g. help in finding accommodation, psychological counselling, reintegration assistance or return projects).

169. Beneficiaries of assistance under the Residence Regulation for THB are no longer entitled to it if the investigation or prosecution is discontinued or dismissed or if the suspect is not found guilty, as their residence permit comes to an end. To benefit from assistance, the persons concerned will have to apply for a residence permit on compelling humanitarian reasons (see paragraph 190). In such cases, part of what is assessed when deciding to issue or not a residence permit, is whether assistance and care are available in the country of origin. During the period of examination of the application for such a residence permit, assistance continues to be provided. The Dutch authorities have indicated that a working group had been set up to examine how such persons who lose the benefit of the protection of the Residence Regulation for THB and have to leave the Netherlands should be accommodated in the meantime. In the absence of any statistics and from what interlocutors met by the GRETA delegation have said, the issuing of residence permits on compelling humanitarian reasons to victims who do not co-operate with the authorities appears to be rare. GRETA is concerned that in such cases the provision of assistance is intrinsically linked to the institution or continuation of criminal investigations and prosecutions.

170. As mentioned in paragraph 150, the Dutch authorities are currently developing a national referral mechanism. One of the purposes of this project is to improve co-operation between organisations providing assistance to victims and those involved in the criminal investigations and proceedings so as to offer assistance adapted to the victims’ needs and ensure continuity in shelter and assistance.

171. GRETA urges the Dutch authorities to ensure that assistance provided to foreign victims of THB is not linked to investigations or prosecutions being pursued.

172. Further, GRETA urges the Dutch authorities to ensure that victims receive adequate assistance uninterruptedly from the moment they are identified. For this purpose, the Dutch authorities should:

- avoid any bottleneck between specialised shelters for foreigners (COSM), accommodating victims during the reflection period, and follow-up shelters or facilities;
- ensure continuity in the psychological and medical support provided to victims after the reflection period, including by clarifying and reinforcing the role of regional care co-ordinators.

173. GRETA also considers that the Dutch authorities should:

- review the entry requirements to COSM shelters, in particular the conditions excluding victims with an ongoing or past asylum application;
- ensure that all victims, including EU and Dutch nationals, are provided with assistance adapted to their individual needs.

174. Moreover, GRETA considers that the Dutch authorities should ensure that placing child victims of “loverboys” in closed shelters should be a measure of last resort and for the shortest appropriate period of time, and should take into account the best interests of the child.

175. Further, GRETA invites the Dutch authorities to keep under review the capacity of the different types of shelters available for male victims of trafficking, to strengthen links between them and secure an adequate allocation of resources for that purpose.

c. Recovery and reflection period

176. As victims of THB 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.

177. According to Article 8, subparagraph k, of the Aliens Act 2000, victims of trafficking in human beings who have been granted a reflection period are considered to be regularly present in the Netherlands. Therefore, the reflection period concerns exclusively foreign victims whose stay in the country is not regular. The reflection period is specified in more detail in chapter B8 of the Aliens Circular. The length of the reflection period is of three months. During this time the persons concerned decide whether to file a complaint of human trafficking or to co-operate with the criminal investigation in some other way. GRETA welcomes the fact that Dutch legislation provides for a recovery and reflection period which is longer than the minimum of 30 days envisaged in the Convention.

178. As noted in paragraph 134, once the law enforcement authorities are satisfied that there is the “slightest indication” that a person is a possible victim of human trafficking, they must inform him or her of the possibility of benefiting from a reflection period and specific assistance. If the person agrees, the law enforcement officers notify it to the IND which is responsible for granting the reflection period from the moment that a possible victim is notified to them. During the reflection period, victims are entitled to assistance and to be accommodated in specialised shelters for foreign victims of human trafficking (see paragraph 155).

179. If the possible victim decides to co-operate with the authorities before or at the expiry of the reflection period, he or she is granted a temporary residence permit under the Residence Regulation for THB for the duration of the investigation and/or prosecution. Should the possible victim indicate, either during or at the end of the reflection period, that he or she does not wish to file a complaint or co-operate with the criminal investigation, the suspension of deportation is withdrawn. GRETA is concerned that suspension of deportation can be removed before the end of the reflection period on the sole basis that a possible victim has indicated that he or she did not want to co-operate, and underlines that the reflection period cannot be conditional upon the co-operation of the possible victim with the criminal investigation or prosecution. Possible victims should be given the whole extent of the reflection period so that they have sufficient time to recover and take an informed decision on whether to co-operate.

180. As a result of some claims made in recent years in Parliament whereby the Residence Regulation for THB was abused, the Dutch authorities announced a number of measures to regulate more tightly access to it. One of them was to bar access to the reflection period for persons who have been more than three months out of the exploitative situation. This measure has not been applied yet, and the decision as to whether to take it further will depend on the outcome of research which is due to be completed in 2014. GRETA is concerned by this proposed measure and stresses that decisions on the different rights and entitlements according to the Convention must be taken on a case-by-case basis regardless of the time elapsed since the exploitation and the existence of urgent needs for assistance. **GRETA would like to be kept informed of any developments in the matter.**

181. Various interlocutors from civil society and the authorities have indicated that the police meet possible victims at regular intervals during the reflection period. The Dutch authorities refer to weekly meetings in specialised shelters for victims. The explanation given by the authorities is that the police try to gain the trust of possible victims with a view to securing their co-operation to the criminal investigation and gather information on the perpetrators as soon as possible to prevent their fleeing from justice. The GRETA delegation heard of positive examples of such meetings, which took place in the shelters themselves, as they sometimes helped possible victims abandon their prejudice against the police. However, in some instances, the possible victims reportedly had to go to the police station for such meetings, even though they were still traumatised, and were pressured to co-operate.

182. Whilst GRETA can see merit in the law enforcement authorities wanting to gain the trust of victims, especially when those come from countries where police corruption is rife, at the same time, it sees a potential risk for the wellbeing of certain victims who have just come out of an exploitative situation and often are still very fragile or fear retaliation from the traffickers. GRETA underlines that Article 13 of the Convention provides for a period of reflection on whether to co-operate with the police as well as of recovery from the experience of trafficking. During this period, victims should be able to recover both physically and psychologically and be in position to take an informed decision on whether to co-operate, which implies, *inter alia*, to be in a reasonably calm frame of mind. Regular interviews by the police during the reflection period, especially if conducted in a police station, can be counter-productive as victims may not feel strong enough to provide information against their traffickers. The risk being for such victims then not to benefit from the residence permit provided under the Residence Regulation for THB and thus either having to leave the Netherlands or applying for residence permit on humanitarian grounds.

183. According to statistics provided by the Dutch authorities, 280 possible victims of THB benefited from a reflection period in 2010. GRETA notes that in the same year there were around 430 identified possible victims who were non-EU nationals. In 2011, 390 possible victims reportedly benefited from the reflection period.

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

d. Residence permits

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

186. Pursuant to the Aliens Decree 2000, a residence permit can be granted both to victims who co-operate with the criminal investigation and to victims who cannot be expected to co-operate, due to a serious threat against them and/or due to medical or psychological constraints.

187. Victims who decide to co-operate with the criminal investigation or prosecution (either by filing an official report or simply making a statement) are entitled to a residence permit in accordance with Article 3.48.1, subparagraph a and b, of the Aliens Decree. Witnesses who report such offences without being victims themselves, but lend assistance to a criminal investigation can also benefit from such a residence permit under Article 3.48.1, subparagraph c. The IND issues a residence permit to victims within 24 hours after the police have informed them that they have lent their assistance. Persons issued with this residence permit are entitled to a shelter, assistance, health insurance and social benefits. They can also work without the need for an additional working permit. Such residence permits are valid one year and can be extended twice provided the criminal investigation or legal proceedings are still in progress. No passport is required for the first application for such a residence permit. When the permit is renewed, a passport must be presented or at least indications that the victim has taken steps to obtain one. The residence permit is free of charge. It is withdrawn if the criminal investigation or criminal proceedings are discontinued, the public prosecution decides not to prosecute, or the alleged perpetrator(s) are not convicted of the crime. If the OM decides not to prosecute, it is possible to lodge an appeal to obtain a more thorough investigation or contest the lack of prosecution. However, since August 2012 and as part of the measures discussed to reduce alleged abuse of the procedure under the Residence Regulation for THB (see paragraph 223), the residence permit is suspended during the appeal process. The number of residence permits granted rose from 280 in 2009 (out of 281 requests) to 340 in 2010 (out of 350 requests) and 398 in 2011 (out of 417 requests).

188. Victims to whom a residence permit has been granted after they agreed to co-operate can apply for another type of residence permit, known as residence permit for continued residence (B9.12), in accordance with Article 3.51 of the Aliens Decree and Chapter 9.12 of the Aliens Circular. There are two conditions for such residence permits to be issued:

- the victim has made an official report or has lent assistance in a criminal case that has ultimately led to a conviction (for trafficking in human beings or another offence, if trafficking in human beings formed one of the initial charges);
- the victim has been lawfully resident in the Netherlands for more than three years with a residence permit under the Residence Regulation for THB, even if the criminal proceedings have not yet been completed or did not result in a conviction.

189. Victims who do not satisfy these two requirements are entitled to the residence permit on humanitarian grounds for victims of THB (B9.10) if it has been established that they cannot be required to leave the country due to individual circumstances. In cases of continued residence, it is not a requirement that victims still co-operate with the criminal proceedings. The application for continued residence costs 350 euros and is valid for five years. The Dutch authorities have indicated that, in general, continued residence results in the person concerned being granted a permanent residence permit.

190. Finally, a residence permit may be issued to a victim of human trafficking who is not able or willing to lend assistance to a criminal investigation or proceedings, on the basis of compelling humanitarian reasons under Article 3.48.1 subparagraph d or Article 3.48.2 subparagraph b of the Aliens Decree, if a serious threat has been made against the victim and/or the victim is subject to medical or psychological constraints. There must be a statement from the police confirming that the person is a victim, as well as either a statement from the police indicating that the victim cannot be expected to co-operate, owing to a serious threat made by the trafficker, or a medical report making it clear that the victim is prevented from lending assistance by reason of a physical or psychological condition. The duration of this residence permit is of one year, after which the victim may submit an application for continued residence under Article 3.51, subparagraph h, i.e. residence permit on humanitarian reasons for victims of trafficking in human beings (B9.10). This request is granted if it has been established that the victim cannot be required to leave the country due to individual circumstances, that no general ground for refusal applies such as a criminal record (see paragraph 218), and that the acute situation which led to granting the original residence permit still applies. GRETA welcomes the possibility for victims of trafficking to be granted a temporary residence permit on the basis of their personal situation as well as for co-operating with the authorities. However, in practice, it appears that the option of a humanitarian permit for victims who decide not co-operate is very rarely used as the whole Dutch system is geared towards the co-operation of victims with the criminal investigation and prosecution. The Dutch authorities have argued that it could also be because the procedure is not sufficiently known.

191. Insofar as children are concerned, unaccompanied foreign minors benefit from the same arrangements whether they seek asylum or fall under the procedure for victims of THB. There is specifically trained staff who assess applications (interview and decision). They are given a longer period of rest and preparation before the procedure starts. Upon entry into the Netherlands or being found without legal residence, the Nidos Foundation is alerted and an application for guardianship is immediately submitted to the competent court. The Nidos foundation is authorised to represent the minor's interests during the procedure and may be assisted by a lawyer.

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

e. Compensation and legal redress

193. 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.

194. According to the CCP, any person who has suffered direct injury as a result of a punishable offence can join the criminal proceedings as injured party in order to claim damages. The CC provides that the judge can impose a compensation order on the person convicted, in which case the compensation is collected by the state (Central Fine Collection Agency) and transferred to the victims as soon as the person convicted has paid part of or the full amount.

195. As part of the compensation framework, the CC has provided, since 2011, for a system of advance payment to victims of violent and/or sexual crimes, including victims of trafficking in human beings. If the person convicted has not paid the full amount of compensation due under the compensation order eight months after the judgment has become final, the government will pay the amount outstanding to the victim. The government will then recover that amount from the perpetrator. GRETA welcomes the introduction of the system of advance payment of compensation to victims of trafficking.

196. Other than joining a claim for compensation as part of the criminal proceedings, victims can also start civil proceedings to seek redress from the perpetrator for the damage suffered. If the court upholds the claim, the victim can instruct a bailiff to recover the civil damage from the perpetrator.

197. In addition, victims of offences involving serious violence who have suffered severe psychological or physical injury and who do not receive compensation in any other way can obtain compensation from the Criminal Injuries Compensation Fund. While in principle they have to produce a statement from a doctor or psychologist demonstrating the injury suffered, this requirement has been waived for victims of human trafficking. In addition, victims of serious crimes (including THB) can receive compensation for material damage resulting from bodily harm, such as medical costs or the loss of income caused by (partial) disability.

198. There are a number of recent cases where significant sums have been awarded to victims of trafficking by way of compensation. For example, the Court of Appeal of Leeuwarden in a decision of 3 January 2012 sentenced a trafficker to four years in prison and ordered him to pay 105 000 euros in compensation to the victim.³⁹

f. Repatriation and return of victims

199. 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.

200. The Dutch authorities have indicated that when evaluating an application for continued residence following the expiry of a residence permit under the Residence Regulation for THB, the possible risk of reprisals related to human trafficking upon return to the country of origin are taken into consideration by the IND. IND staff make use of all available sources of information, such as official reports and country-specific information provided by NGOs. If the risks are found to be unacceptably high, the person is not required to return to his or her country of origin and is granted another residence permit (see paragraph 188).

201. As part of the return procedure, the DT&V systematically carries out an assessment on whether there are any indications that a person is a victim of human trafficking.

³⁹

Court of Appeal of Leeuwarden, case No. 24-003026-10, judgment of 3 January 2012.

202. The Dutch authorities co-operate with IOM for the return of victims whose application for residence has been rejected through the Assisted Voluntary Return and Reintegration (AVVR) programme. As part of this programme victims of THB can receive a package for reintegration of up to 1 500 euros. A project on the reintegration of unaccompanied foreign minors is also in place with a reintegration package of up to 4 000 euros. EU nationals who are THB victims can benefit from an assisted voluntary return programme and receive 500 euros in kind for reintegration. In 2010, there were 29 referrals to IOM for voluntary return of victims of THB, in 2011, there were 36 and, in 2012, 40; the great majority were from EU Member States (in particular, Hungary, Bulgaria and Romania). Agreements are also in place with various countries of origin regarding the provision of shelter accommodation upon return of the victim.

203. As regards unaccompanied foreign minors, the Dutch authorities have indicated that, before return is considered, specially trained officials assess asylum applications of victims of gender based violence, including THB. Unaccompanied minors can only return to their country of origin if there are adequate reception conditions in the country of origin, such as reunification with the parents or relatives where possible. Should this not be possible, other options are considered, including reception centres. The Dutch authorities have indicated that there are several support projects for victims of THB carried out by IOM and NGOs in co-operation with local organisations in the countries of origin.

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

a. Substantive criminal law

204. 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).

205. The criminal offence of trafficking in human beings is provided for under Article 273f of the CC (see paragraphs 48 and following). This provision is worded in such a way that cases where the exploitation has not taken place yet ("with the intention of exploiting") are also punishable. In 2013 Article 273f was amended twice so as to increase the length of prison sentences and transpose Directive 2011/36/EU. The maximum prison sentence for the offence of THB was raised from eight to 12 years (Article 273f, paragraph 1). In cases where the offence was committed by two or more persons or the victim was under 18 years of age or violence was used, the maximum prison sentence was increased from 12 to 15 years (Article 273f, paragraph 3). Where the victim suffered serious physical injuries, the maximum prison sentence went from 15 to 18 years (Article 273f, paragraph 4). In the event that the victim has died, the heaviest sanction was increased from 18 to 30 years' imprisonment or a life prison sentence. GRETA welcomes the increase of the prison sentences which can be imposed on traffickers. In all cases, a fine of up to 78 000 euros can be imposed on the perpetrators. From the wording of Article 273f, GRETA notes that it is possible to choose between a prison sentence and a penalty. In their comments on the draft report, the Dutch authorities have recognised that great discretion is left to judges but that in THB cases the sentences passed will almost always be imprisonment (see paragraph 230). They have also drawn attention to the OM Directives on sentences recommendations in cases of THB for sexual exploitation and for labour exploitation and servitude where in principle imprisonment will be requested (see paragraph 225).

206. According to Article 273f, paragraph 7, taken in conjunction with Article 251, paragraph 2 of the CC, when persons are sentenced for human trafficking and have committed this offence as part of their profession, courts can bar them from practising it as an additional sentence.

207. Furthermore, pursuant to Article 36e of the CC, the OM can request the confiscation of illicitly obtained gains, which applies to criminal assets obtained through trafficking.

208. Dutch law does not establish a specific criminal offence for retaining, removing, concealing, damaging or destroying a travel or identity document of another person committed intentionally and for the purpose of enabling THB. However, such behaviour is taken into consideration by prosecutors and courts in order to establish the element of force or coercion as part of the crime of THB. Damaging or destroying a travel or identity document can be prosecuted separately as destruction within the meaning of Article 350 of the CC. In addition, forging travel or identity documents is criminalised under Article 231, paragraph 1 of the CC and punished by a prison sentence of up to six years or a fine of 78 000 euros.

209. Under Article 51 of the CC legal persons can be held liable for committing punishable acts. Criminal prosecution can be instituted against a legal person, against those who gave the order for the punishable act to be committed and those who were actually in charge while the punishable act was taking place.

210. As mentioned earlier in the report (see paragraphs 58 and following), criminal law and administrative law measures are taken in parallel against organised crime, including human trafficking. Municipalities, for example, play an important role in combating trafficking at the local level, in particular through the Public Administration (Probity Screening) Act (see paragraph 17). For instance, if persons and companies that are applying for or are in possession of certain business permits or subsidies are found to have criminal records, criminal connections or are using criminal money, municipalities can turn down the application or revoke the permit or subsidy. Similarly, as noted in paragraph 117, the municipal authorities are to be given further responsibilities as regards the regulation of prostitution according to the Bill entitled "Regulation of prostitution and fight against abuses in the sexual services sector" which is currently before the Dutch Senate.

211. There is no specific provision criminalising the use of services of a victim of THB with the knowledge that the person is a victim of THB as provided for in Article 19 of the Convention. However, in cases of involuntary sexual services where the user of those services was, or ought to have been, aware of their involuntary nature, prosecution for sexual abuse can take place in accordance with the CC. According to Article 248b of the CC, the use of services provided by an underage prostitute constitutes a criminal offence. Furthermore, in cases where the trafficker is also the client, such as in cases of domestic slavery or in the agricultural sector, action may be taken against the "client" by virtue of Article 273f, paragraph 1, subparagraph 4, of the CC. **GRETA invites the Dutch authorities to consider making clearer the criminalisation of the use of services of a victim of THB with the knowledge that the person is a victim of THB.**

212. The Dutch authorities have indicated that previous convictions in other countries can be taken into account on the basis of Article 68 of the CC, and it is done on a regular basis. The European Criminal Records Information System (ECRIS) supports the exchange of such information.

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

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

214. There is no specific non-punishment provision for victims of human trafficking under Dutch law. However, in accordance with Article 9a of the CC, if victims are prosecuted for punishable acts committed as a result of exploitation and the courts regard them as guilty, the courts may decide in the light of the circumstances of the case not to impose a sentence.

215. Under the Dutch legal system, the public prosecution has discretionary power to decide whether or not to prosecute a case. Public prosecutors can thus decide not to prosecute victims who committed punishable offences as a result of a situation of exploitation. The Dutch authorities have stated that in a number of cases, the decision by the OM not to prosecute was explicitly based on the non-punishment principle. Furthermore, the revised Directive on prosecuting and investigating the crime of human trafficking issued in 2013 by the Board of Prosecutors General (see paragraph 225) draws attention to the non-punishment principle.

216. The principle of non-punishment has been applied to the benefit of trafficked victims in a number of cases, including for offences of drug smuggling, pickpocketing, fraud, or perjury.⁴⁰ However, it has also been reported that persons showing signs of being victims of trafficking were prosecuted under Article 231(2) of the CC for the intentional possession of a false travel document, reportedly because they were not identified as victims.⁴¹ In their comments on the draft report, the Dutch authorities have indicated that the basic training on human trafficking for prosecutors pays attention to the non-punishment principle for all types of crimes victims have committed as a consequence of trafficking, including the use of false documents. As mentioned in the Aliens Circular 2000, a residence permit for victims of trafficking can be granted even if they used false documents. GRETA underlines that victims of trafficking are frequently given false documents by traffickers. **GRETA invites the Dutch authorities to make sure that no victims found in possession of false travel documents are punished on this ground.**

217. Particular reference should be made of a case of trafficking of an Indian girl for the purpose of servitude, known as the Mehak case. The traffickers made the victim, aged 13 at the time, come from India and accommodated her in their house. The victim depended entirely on the traffickers, received very low wages, worked very long hours and hardly had any contacts with the outside world. The victim was convicted on the basis that she had passed on instructions from her traffickers to a couple who was also living in the traffickers' house and working for them, requiring them to beat their baby, and that she had given them a stick used for assaulting the baby who as a result had died. The fact that she was vulnerable and put under continued pressure from the traffickers was a mitigating factor which led to a reduced sentence of three years' imprisonment. However, no mention was made of the non-punishment clause in the first instance judgment.⁴² On appeal, the court considered that the non-punishment principle did not apply as the Court found that there was not a sufficiently direct connection between, on the one hand, the systematic assaults and the death of the baby and, on the other, the work the victim had to perform during the time she was exploited.⁴³ The National Rapporteur has considered that this interpretation of the non-punishment principle was too narrow.⁴⁴ As a result of her exploitative situation, the victim was in situation of particular vulnerability that made her generally easily manipulated by the traffickers.

⁴⁰ For more information on these cases, see the seventh report of the National Rapporteur.

⁴¹ See National Rapporteur's 7th report, pp.226-227.

⁴² The Hague District Court, 14 December 2007, LJN: BC1195 and LJN: BC1761.

⁴³ The Hague Court of Appeal, 19 January 2010, LJN: BK9410.

⁴⁴ Dettmeijer-Vermeulen C.E. and Esser L.B. (2013), *Het mensenhandelslachtoffer als dader; een "personele unie" met grote gevolgen*, available at: www.nationaalrapporteur.nl/.

218. The victim in the above-mentioned case did not benefit from the Residence Regulation for THB, even though she had co-operated with the authorities, by reason of the offences she had committed during the time she was exploited. This resulted in her being considered an “undesirable alien” and she will be deported upon her release. The fact that the victim fears for her life if deported to India does not appear to have been a determinant factor. The National Rapporteur noted in this respect that “the victims’ interests in receiving help and shelter and the interests of effectively combating human trafficking should weigh more heavily than the immigration-law interests of not awarding [Residence Regulation for THB] status”.⁴⁵ GRETA shares this point of view. It also appears from other cases that having committed an offence during exploitation can prevent victims from being granted continued residence under the Residence Regulation for THB after the conviction of the traffickers as they are considered to be “undesirable aliens”. **GRETA urges the Dutch authorities to ensure that victims having committed an offence under the influence of traffickers are not precluded from obtaining a residence permit after the conviction of the perpetrators.**

219. GRETA has been informed of a bill aiming at criminalising irregular stay in the Netherlands. GRETA is concerned about the negative impact this bill may have on foreign victims of trafficking who are often in the Netherlands without a proper residence permit. This could allow traffickers to exert additional pressure on victims, making it more difficult for them to come forward. In their comments on the draft report, the Dutch authorities have indicated that the penalty would take the form of a fine and that the explanatory memorandum of the Bill states that irregular migrants that have witnessed or become victims of criminal offence will be able to report it to the police without being apprehended for irregular stay. Moreover, at the slightest indication of trafficking, the reflection period will have to be proposed. Finally, minors will be excluded from the scope of this law.

c. Investigation, prosecution and procedural law

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

221. According to the principle of discretionary prosecution applied in the Dutch legal system, the OM is the only body authorised to prosecute suspects of human trafficking where sufficient evidence is available to support a charge. While an official report by a victim can give cause to proceed with a prosecution, the OM can also initiate a prosecution without it, on the strength of other elements. As noted in paragraph 26, there are specialised public prosecutors on THB in every OM district and a National Public Prosecutor on Human Trafficking to ensure coherent action.

222. According to Article 12 of the CCP, those with a direct interest in a case can appeal against a decision by the OM not to prosecute a trafficking case by filing a written complaint to the Court of Appeal. Since August 2012, deportation is no longer suspended during appeal. GRETA underlines that the fact that there is not enough evidence to continue a prosecution in a human trafficking case should not affect the right to assistance which a victim is entitled to, and thus the regularity of the victim’s stay in the country should not be jeopardised. In their comments on the draft report, the Dutch authorities have stated that all victims with a residence permit for victims of THB can apply for a residence permit on compelling humanitarian reasons when the public prosecutor decides not to prosecute. The residence permit for victims of THB will not be revoked until the decision is made as to whether they will be issued with a residence permit on compelling humanitarian reasons.

223. While NGOs can provide support to victims during the criminal proceedings, they cannot play a formal part in criminal proceedings and cannot institute proceedings in their own name or that of the victims against the traffickers.

⁴⁵ See National Rapporteur’s 7th report.

224. As noted in paragraph 27, the police's National Unit and each of the 10 regional units have a THB team dealing with human trafficking, within the aliens special branch, with one reference officer on human trafficking. In addition to the reference officer, regional police units have a number of investigators certified to deal with victims of THB. Together these reference officers form the LEM, which meets on a regular basis. During investigations, they build up THB cases using different sources of information including from the RIECs, which pool information from different public bodies (see paragraph 70). A lot of emphasis is nonetheless placed on the statements of the victims (see, for example, paragraphs 133 and 181). Each THB investigation includes a financial report on illegal assets linked to trafficking. Investigation techniques referred to by the Dutch authorities include covert surveillance (Article 126g of the CCP), interception and recording of communications (Article 126m of the CCP), search of any premises (Article 97 CCP), multidisciplinary operations and the seizing and shutting down of websites such as those of escort agencies associated with human trafficking. In this context, GRETA recalls the importance of special investigation techniques within the meaning of Recommendation Rec(2005)10 of the Committee of Ministers to Member States on "special investigation techniques" in relation to serious crimes including acts of terrorism.

225. Insofar as prosecution is concerned, the Board of Prosecutors General has published a Directive on investigating and prosecuting the crime of human trafficking which specifies how cases of THB should be investigated and prosecuted, which cases should be given priority, and how investigators and prosecutors should treat victims. A revised Directive was published in 2013. It places emphasis on the non-prosecution and non-punishment of victims of THB and their protection, including child victims, throughout the criminal investigations and proceedings. In addition, a Directive on sentencing recommendations with regard to trafficking in human beings for the purpose sexual exploitation has been published for prosecutors. Similarly, a Directive on sentencing recommendations with regard to trafficking in human beings for the purpose of other forms of exploitation (servitude or labour exploitation) has also been issued.

226. Criminal investigators of the Inspectorate SZW can carry out criminal investigations into trafficking for the purposes of labour exploitation in co-operation with the OM. For this purpose, they enjoy the same investigative powers as the police (such as search or special observation). Some criminal investigators have the status of assistant prosecutor and as such can issue warrants to enter premises if there are any suspicions of labour exploitation. In accordance with the aforementioned Directive, they have to trace criminal earnings for them to be frozen as part of the criminal proceedings. The investigations are led by a public prosecutor who liaises with the police for the identification of victims and ensures that there are no double investigations.

227. In addition, the EMM gathers information on signs of trafficking which have been detected by the above-mentioned investigative agencies, as well as the chambers of commerce, the COA, the Foundation for compliance with the Collective Agreement for Temporary Workers, and, by pooling this information, aims at improving cross-referencing between agencies for the purpose of investigations. The EMM is co-run by these different investigative agencies (see paragraph 33) and can propose that investigations into suspected trafficking situations be initiated on the strength of the information received and, in line with the "barrier model", suggest which agency would be best placed to undertake these investigations. The EMM has itself no powers of investigation.

228. The OM initiates criminal financial investigations in order to unveil money flows and confiscate illegal earnings. The Criminal Assets Confiscation Bureau (BOOM) of the OM can provide support to prosecutors in concrete cases through the BOOM Advisory Team (BAT), which consists of prosecutors, criminal-law experts, civil consultants and chartered accountants. It also assists the Central Collection Agency (CJIB) for the execution of confiscation measures. The National Rapporteur underlined in her 8th report the need to make better use of the BOOM in the framework of trafficking investigations. The Financial Intelligence Unit-Netherlands (FIU-The Netherlands) has on occasion co-operated in human trafficking investigations by identifying international flows of money linked to human trafficking networks. Several interlocutors have nonetheless underlined the difficulty in these financial investigations as assets are often located outside the Netherlands.⁴⁶ As of 1 January 2014, it is also possible to sequestrate in view of imposing compensation in subsequent criminal proceedings, therefore extending the possibility of confiscation for the purpose of compensation.

229. A total of 1 245 cases of human trafficking were dealt with by the OM between 2008 and 2012. Almost three quarters of these cases secured charges of human trafficking, but around a quarter of the cases led to decisions not to prosecute on “technical grounds” (e.g. insufficient evidence for a successful conviction) or on the basis of a “policy waiver” (e.g. the suspect only played a small part in the offence or cannot be found). GRETA notes the important level of decisions not to prosecute, especially in view of the fact that possible victims lose the right to assistance and to stay in the Netherlands under the Residence Regulation for THB as a result of such decisions (see paragraph 169). There has been a steady increase in the number of human trafficking cases registered by the OM per year: 141 cases in 2009, 216 in 2010, 257 in 2011 and 311 in 2012. The OM issued summonses for human trafficking in 117 cases in 2009, 151 in 2010, 176 in 2011 and 239 in 2012.⁴⁷

230. The rate of conviction for human trafficking in first instance remained relatively low in 2010 and 2011 (respectively 59% and 60%), but increased significantly in 2012 to reach 71%, bringing it to similar levels as those from 2004 to 2009. As to the length of sentences imposed on traffickers, approximately 10% of them were of more than four years during the period 2009-2011. In 2009 and 2010, sentences between one and four years represented around 40% while, in 2011, this rate rose to 50%. Conversely, the rate of sentences of less than one year decreased from approximately 50% in 2009 and 2010 to 40% in 2011. There is therefore an increase in the severity of sentences imposed for trafficking, commensurate with the higher sentences provided for by law since 2009 (see paragraph 205).

231. **GRETA considers that the Dutch authorities should ensure that, in trafficking cases where it has been decided not to prosecute, victims are duly informed of the possibility of applying for a residence permit on compelling humanitarian reasons and that deportation will be suspended while their application is examined.**

232. **Furthermore, GRETA invites the Dutch authorities to:**

- **further support the specialisation of judges on human trafficking in order to continue securing high rates of convictions and sentences proportionate to the seriousness of the crime (see paragraph 67);**
- **make further use of the existing framework to seize and confiscate criminal assets in the framework of trafficking investigations at the earliest stages possible.**

⁴⁶ National Rapporteur, Annual Reports of 2010 and 2012, respectively pages 26 and 27-28. Available at: <http://en.fiu-nederland.nl/>

⁴⁷ National Rapporteur, *Trafficking in human beings: visible and invisible*, page 80.

d. Protection of victims and witnesses

233. By virtue of Article 28 the Convention, Parties must take measures to provide effective and appropriate protection from potential retaliation or intimidation in particular during and after the investigation and prosecution of perpetrators. This protection can be of various types (e.g. physical, relocation or 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.

234. During court proceedings, victims can be hidden from the view of suspects or disguised. They can also give evidence through video-conferencing. Victims can be examined outside the courtroom by the investigating judge, in the presence of the suspects' legal counsel, but without the suspect being present. Furthermore, on the basis of a risk assessment, protection can be organised in order to protect victims against immediate danger.

235. Statements from victims can be shown on video or taken into account in the courtroom in the form of a written transcript. In the event that victims wish to remain anonymous, there is a possibility of declaring victims to be threatened witnesses in exceptional cases. In that case, victims will be examined anonymously by the investigating judge.

236. Regarding child victims, special measures exist for their protection during criminal proceedings in addition to the above-mentioned general measures. Wherever possible, the same persons conduct all the interviews with the child victim and interviews take place in premises designed or adapted for that purpose. Furthermore, the child victim may be accompanied by a representative or an adult of the child's choice, subject to exceptions. Wherever possible, interviews with the child victim or child witness are also recorded and as such can be used in evidence in criminal court proceedings. Similar measures are also considered if a victim has special needs, such as in case where the victim is pregnant, in poor health, mentally or physically disabled, or has suffered a serious form of psychological, physical or sexual violence.

237. Shelters are meant to provide victims with safety and anonymity. In specialised shelters for foreign victims and protected reception centres for foreign minors (see paragraphs 155-159 and 163), the safety of victims is guaranteed, including through their secret location. However, according to some civil society interlocutors, not all other shelters appear to be in a position to ensure the same level of security which is often required to protect victims from traffickers. GRETA recalls that pursuant to Article 12(a) of the Convention appropriate and secure accommodation must be provided to trafficked victims. In their comments on the draft report, the Dutch authorities have specified that women's shelters conduct a risk assessment before the victims come and after their arrival in order to adapt the level of security required. In high risk cases the shelters work with the local authorities and OM to ensure the victims' security.

238. Since 2010, a special witness protection programme has been in place for victims or witnesses of trafficking in human beings or witnesses. This programme, which was devised in consultation with NGOs, is a combination of specialised care and shelter for victims of THB and standard witness protection procedures. It may also involve a change of identity. There have been no candidates for this programme so far. **Whilst welcoming the protection programme for victims and witnesses of THB as best practice under Article 28 of the Convention, GRETA invites the Dutch authorities to examine why it has so far not been used and to ensure that full use is made of it wherever required.**

5. Concluding remarks

239. GRETA welcomes the steps taken by the Dutch authorities to combat trafficking in human beings in terms of legislation, policies and structures. It commends in particular the setting up of the independent National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children – the first institution of its kind in Europe – which over the years has become instrumental in the shaping of anti-trafficking action in the Netherlands.

240. The Netherlands has adopted a multi-agency, integrated approach to the fight against trafficking, involving as many public actors as possible that are likely to come into contact with victims. A wide range of actors have thus been trained, including officials of the Inspectorate SZW, prosecutors, judges and local actors in particular in municipalities. However, identification rests for the time being exclusively with law enforcement agencies, giving it a criminal-law bias that may be prejudicial to the situation of victims. GRETA is of the view that much is to be gained by involving more stakeholders in the identification process, including specialised NGOs who are in daily contact with risk groups. It therefore welcomes the work that has recently begun towards the establishment of a national referral mechanism involving more stakeholders.

241. GRETA underlines the human rights-based and victim-centred approach that underpins the Convention. It appears that much emphasis is placed in the Dutch system on the co-operation of the victim with the law enforcement authorities from the earliest stages. According to GRETA, while it is important to obtain the victims' co-operation to increase chances of successfully prosecuting traffickers, a balance should nonetheless be found so as not to jeopardise the victim's recovery from this serious violation of their human rights. Moreover, assistance to and protection of victims should not depend on the potential of investigations and prosecutions or their continuation. For this reason, GRETA sees it as crucial that further be done to ensure that assistance, protection and the legal residence of victims who do not co-operate or whose case cannot be pursued be improved.

242. The approach specific to child trafficking needs to be further developed to ensure that the best interests of the child are always guaranteed. GRETA welcomes the efforts recently initiated by the Dutch authorities to give greater focus to the specificity of the situation of child victims for the purpose of their identification, assistance and protection.

243. GRETA invites the Dutch authorities to keep it informed on a regular basis of developments in the implementation of the Convention and looks forward to continuing the good co-operation in further efforts in achieving the purposes of the Convention.

Appendix I: List of GRETA's proposals

Comprehensive approach and co-ordination

1. GRETA invites the Dutch authorities to:
 - continue and further strengthen their efforts against human trafficking for the purpose of labour exploitation, including by doing more to raise awareness of this type of trafficking among professionals (such as policemen, prosecutors, judges, labour inspectors, municipalities and trade unions), in high risk sectors (e.g. agriculture, horticultural, catering, dock work, meat processing and construction), as well as among the public at large;
 - further restrict employment contracts with benefits in kind and tighten regulations on employment agencies.
2. GRETA considers that the Dutch authorities should continue developing a proactive approach taking full account of the particular vulnerability of child victims of trafficking, in accordance with the best interests of the child.

Training of relevant professionals

3. GRETA welcomes the efforts made in the Netherlands to train different professionals on issues related to human trafficking and invites the Dutch authorities to maintain their efforts, in particular concerning the training of judges, labour inspectors and local actors. 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, to assist and protect them, to facilitate compensation for victims and to secure convictions of traffickers.

Data collection and research

4. GRETA invites the Dutch authorities to continue exploring ways of encouraging all stakeholders to report presumed victims of THB to CoMensha in order to have comprehensive statistics on all victims in the country, including children, and to secure adequate funding for CoMensha to perform this task.
5. GRETA welcomes the research on THB carried out in the Netherlands and invites the Dutch authorities to continue conducting and supporting research on THB issues as an important source of information for future policy measures.

International co-operation

6. GRETA commends the efforts made in the area of international co-operation and invites the Dutch authorities to continue developing international co-operation with a view to preventing human trafficking, assisting victims of trafficking, and investigating and prosecuting human trafficking offences, including through exploring further possibilities for co-operation with governmental and non-governmental actors in countries of origin and transit.

Measures to raise awareness

7. GRETA welcomes the considerable efforts made in the Netherlands in the area of awareness raising as a form of prevention of THB and invites the Dutch authorities to plan future actions in the light of the assessment of the impact of previous awareness-raising measures.

Measures to discourage demand

8. GRETA considers that the Dutch authorities should strengthen their efforts to discourage demand for the services of trafficked persons, for all forms of exploitation, in partnership with the private sector and civil society.

Identification of victims of trafficking in human beings

9. GRETA urges the Dutch authorities to ensure that all victims of trafficking are properly identified and can benefit from the assistance and protection measures contained in the Convention, in particular by:

- placing the protection of and assistance to possible victims at the heart of the identification system and not linking identification to the prospects of the investigation and prosecution;
- strengthening multi-agency involvement in the decision-making process leading to the identification of victims of trafficking, by giving a formal role in the identification process to frontline actors such as NGOs, labour inspectors, social workers and officials dealing with irregular migrants and asylum seekers;
- improving the detection and identification of child victims of trafficking, including by setting up a specific identification mechanism which takes into account the special circumstances and needs of child victims, involves child specialists and ensures that the best interests of the child are the primary consideration.

10. GRETA invites the Dutch authorities to continue and further strengthen their efforts to identify victims of trafficking for the purpose of labour exploitation, especially among irregular migrant workers, and to detect victims of trafficking among asylum seekers, in particular unaccompanied foreign minors.

Assistance to victims

11. GRETA urges the Dutch authorities to ensure that assistance provided to foreign victims of THB is not linked to investigations or prosecutions being pursued.

12. Further, GRETA urges the Dutch authorities to ensure that victims receive adequate assistance uninterruptedly from the moment they are identified. For this purpose, the Dutch authorities should:

- avoid any bottleneck between specialised shelters for foreigners (COSM), accommodating victims during the reflection period, and follow-up shelters or facilities;
- ensure continuity in the psychological and medical support provided to victims after the reflection period, including by clarifying and reinforcing the role of regional care coordinators.

13. GRETA also considers that the Dutch authorities should:

- review the entry requirements to COSM shelters, in particular the conditions excluding victims with an ongoing or past asylum application;
- ensure that all victims, including EU and Dutch nationals, are provided with assistance adapted to their individual needs.

14. Moreover, GRETA considers that the Dutch authorities should ensure that placing child victims of “loverboys” in closed shelters should be a measure of last resort and for the shortest appropriate period of time, and should take into account the best interests of the child.

15. GRETA invites the Dutch authorities to keep under review the capacity of the different types of shelters available for male victims of trafficking, to strengthen links between them and secure an adequate allocation of resources for that purpose.

Recovery and reflection period

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

Residence permits

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

Substantive criminal law

18. GRETA invites the Dutch authorities to consider making clearer the criminalisation of the use of services of a victim of THB with the knowledge that the person is a victim of THB.

Non-punishment of victims of trafficking in human beings

19. GRETA invites the Dutch authorities to make sure that no victims found in possession of false travel documents are punished on this ground.

20. GRETA urges the Dutch authorities to ensure that victims having committed an offence under the influence of traffickers are not precluded from obtaining a residence permit after the conviction of the perpetrators.

Investigation, prosecution and procedural law

21. GRETA considers that the Dutch authorities should ensure that, in trafficking cases where it has been decided not to prosecute, victims are duly informed of the possibility of applying for a residence permit on compelling humanitarian reasons and that deportation will be suspended while their application is examined.

22. Furthermore, GRETA invites the Dutch authorities to:

- further support the specialisation of judges on human trafficking in order to continue securing high rates of convictions and sentences proportionate to the seriousness of the crime (see paragraph 67);
- make further use of the existing framework to seize and confiscate criminal assets in the framework of trafficking investigations at the earliest stages possible.

Protection of victims and witnesses

23. Whilst welcoming the protection programme for victims and witnesses of THB as best practice under Article 28 of the Convention, GRETA invites the Dutch authorities to examine why it has so far not been used and to ensure that full use is made of it wherever required.

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

Public bodies

- Ministry of Security and Justice
 - Law Enforcement Department
 - Migration Department
 - Security and Administration Department
 - Legislation Department
 - National Prosecution Service (OM)
 - Board of Prosecutors General
 - National Public Prosecutor on Human Trafficking
 - Immigration and Naturalisation Service (IND)
 - Custodial Institutions Agency (DJI)
 - Repatriation and Departure Service (DT&V)
 - Roma Programme Team
- Ministry of Social Affairs and Employment
 - Inspectorate SZW
 - Labour Relations Directorate
 - Integration Policy Directorate
- Ministry of Health, Welfare and Sports
 - Social Support Department
- Ministry of Foreign Affairs
 - Security Policy Department
 - Consular Affairs and Migration Policy Department
- National Police
 - National Crime Squad
 - Police Commissioner EU for the Netherlands
 - Dutch Police College
- Royal Marechaussee Netherlands (KMar)
 - Sluitsteam
 - Anti-Smuggling and Human Trafficking Team
 - Migration Crime Team
- Task Force on Human Trafficking
- National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children
- Human Rights College
- Central Agency for the Reception of Asylum Seekers (COA)
- Expertise Centre on Human Trafficking (EMM)

-
- City of Amsterdam
 - Department of Public Order and Safety
 - Police Amsterdam
 - Human Trafficking and Prostitution Team
 - Regional Information and Expertise Centre Amsterdam-Amstelland

Intergovernmental organisations

- International Organisation for Migration (IOM)
- Office of the United Nations High Commissioner for Refugees (UNHCR)
- United Nations Children's Fund (UNICEF)

Non-governmental organisations

- Amsterdam Co-ordination Centre for Specialist Care for Victims of Human Trafficking (ACM)
- CKM
- Defence for Children Netherlands
- Fier Fryslân
- CoMensha
- ECPAT Netherlands
- FairWork
- Foundation M (Report Crime Anonymously)
- Geisha Foundation
- HVO Querido
- Jade Zorggroep
- Moviera
- Netherlands Trade Union Confederation (FNV)
- Nidos Foundation
- PMW Rotterdam
- P&G 292
- Shop Den Haag

Government's comments

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

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

The Convention requires that "the report and conclusions of GRETA shall be made public as from their adoption, together with eventual comments by the Party concerned." GRETA transmitted its final report to the Dutch authorities on 10 April 2014 and invited them to submit any final comments. The comments of the authorities of the Netherlands, submitted on 16 June 2014, are reproduced hereafter.



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DG II - Democracy
Directorate of Human Dignity and Equality
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Date 12 June 2014
Concerning Comments to the Report concerning the implementation of the
Council of Europe Convention on Action against THB

Dear Ms Nestorova,

The Netherlands would like to thank the Group of Experts on Action against Trafficking in Human Beings (GRETA) for its first report on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings in the Netherlands. The process to come to this report has been both intensive and pleasant and the Netherlands would like to thank GRETA, and especially the delegation of GRETA that came to the Netherlands (composed of Ms Gulnara Shahinian, Mr Frédéric Kurz and Mr Gerald Dunn), for its very constructive cooperation during the whole period.

The Netherlands is pleased with the contents of and the recommendations contained in the final report. In general, the report recognises the many steps taken by the Netherlands to prevent trafficking in human beings (THB), to investigate and prosecute the offenders and to support and protect the victims of THB. In the Netherlands, a whole range of actors, both governmental and non-governmental, public and private and at the local, regional and national level, is involved in the fight against THB. The report describes this comprehensive and multidisciplinary approach and the many measures and activities undertaken by the Netherlands in the fight against this complex form of crime in detail. The Netherlands particularly appreciates the fact that GRETA welcomes:

- the training provided to relevant public actors;
- the close co-operation between the authorities and civil society;
- the efforts in the area of awareness-raising;
- the setting-up of the institution of the National Rapporteur on THB;
- the data collection efforts;
- the research carried out;
- the three-month reflection period (longer than the minimum of 30 days laid down in the Convention);
- the fact that Dutch legislation provides for the issuing of residence permits to both victims who co-operate in the investigation or criminal proceedings and on the basis of the victim's personal situation;
- the specialisation of judges;
- the increase of the prison sentences which can be imposed;

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Our reference

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Your reference

DG-II/PN/mc

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

- the system of advance payment of compensation awarded when the convicted trafficker does not pay within eight months; and
- the efforts in the area of international cooperation.

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The Netherlands is also pleased with the inclusion in the report of municipalities as important actors in the fight against THB.

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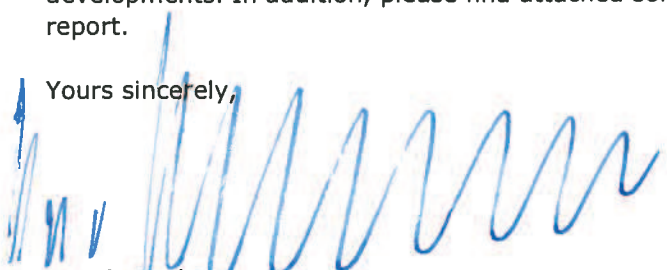
The remainder of the recommendations offer valuable information to critically assess and strengthen specific aspects of Dutch anti-trafficking efforts. The Netherlands is grateful for GRETA's views on these areas and will take those on board in the continuous development of a wide range of anti-trafficking policies and activities to fight the perpetrators and assist the victims of THB. The following initiatives, established partly due to the visit of the GRETA delegation to the Netherlands, will determine the direction of many developments in the near future:

Our reference
519324

- the project to set up a National Referral Mechanism;
- the initiatives regarding THB for labour exploitation;
- the initiatives regarding trafficking in minors; and
- the possible re-evaluation of the Residence regulation for trafficking in human beings.

Many issues mentioned in the recommendations will also be tackled as part of the agenda for the third term of the Task Force on Human Trafficking. All of these initiatives are described in detail in the attached document on recent developments. In addition, please find attached some comments on GRETA's report.

Yours sincerely,



Ivo Opstelten
Minister of Security and Justice
The Netherlands

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

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Recent developments

The Netherlands would like to highlight a number of important issues and recent developments:

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1) Project to set up a National Referral Mechanism

Because of the requirement in the 2012 EU anti-trafficking strategy, as a follow up to the visit of the GRETA representatives to the Netherlands in June 2012 and in response to a recommendation made in the ninth report of the National Rapporteur (September 2013), an interdepartmental project was started in October 2013 with the aim to develop a National Referral Mechanism for victims of human trafficking. The project group consists of representatives of the three ministries with primary responsibility for victims of trafficking: Security and Justice, Health, Welfare and Sport and Social Affairs and Employment. The project is aimed at all victims of THB (Dutch, EU and non-EU; underage and adult; male and female; and so on). The victims' needs will be central. The aim is to offer victims assistance adapted to their needs. Victims' individual needs vary from intensive medical-psychological assistance, safe shelter, legal assistance, help to regain a normal day/night rhythm, help receiving social welfare payments etc. Not only the experiences of THB are of importance in this respect, but also earlier (traumatic) experiences.

The Netherlands already offers several types of shelter for different kinds of victims and many different types of services with a view to provide tailor-made assistance, as can be read in GRETA's report. However, this does not alter the fact that these shelters and services have been set up over many years and could benefit from some more coherence in certain areas. Streamlining and laying down procedures and guidelines that are clear for all parties involved, improving cooperation between the different stakeholders and exposing bottlenecks are therefore aims of this project. Attention will be paid to many different issues, including some that are mentioned in GRETA's recommendations, such as identification (for example by a multidisciplinary team), registration, the role of regional care coordinators, continuity in shelter and assistance, the follow-up given to victims of THB after they leave the shelter and the cooperation between the organisations providing care for victims and those pursuing criminal justice.

The project is undertaken in close cooperation with the National Rapporteur, relevant NGOs, implementing bodies etc. Before the summer recess, the Dutch Parliament will be informed on the outcomes of this project, as well as on the further steps to be taken.

2) Initiatives regarding THB for labour exploitation

As GRETA recommends, the Netherlands intends to further strengthen its efforts against THB for labour exploitation. Many examples of this are included in the GRETA report, but there are a few things the Netherlands would like to highlight. In the third term of the Task Force on Human Trafficking, labour exploitation will be a priority theme. The Task Force will aim for a clearer picture of the nature, location and extent of (1) labour exploitation inside and outside of the known risk sectors and (2) new phenomena (such as applying for benefits or allowances

under duress and forced begging). This vision will be achieved by strengthening the information position through (a) more studies of labour exploitation and, in so far as possible, (b) more criminal investigations. There are several studies (ILO, EC) in this area, but there is no real estimate of the scale of labour exploitation in the Netherlands. As mentioned in the GRETA report, the Ministry of Social Affairs and Employment (SZW) will therefore commission a study in order to look into the nature and extent of labour exploitation, the sectors and nationalities affected and the best methodology to make an estimate, in so far as this is possible. There will also be a study (desk research) by SZW exploring possible phenomena of labour exploitation in several EU-countries.

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In the coming three years, SZW will mainly invest in training and awareness of labour exploitation among municipalities and health organisations, including training on how to handle any sign of labour exploitation they may come across. Another awareness campaign about labour exploitation is that of LTO Netherlands (the Dutch Federation of Agriculture and Horticulture), also mentioned in the GRETA report, called "Being a good employer". The Inspectorate of the Ministry of Social Affairs will invest in further training for labour inspectors to recognize the signs of human trafficking for the purpose of labour exploitation.

The NGO FairWork received a grant from the Ministry of SZW to expand and improve aid to possible victims of labour exploitation, for example by using cultural mediators. FairWork also aims to increase the awareness of the public.

To deal with rogue employment agencies a two-year programme was set up in 2012. As part of this programme, enforcement and detection were strengthened through the establishment of an intervention team consisting of the Inspectorate SZW, the Tax and Customs Administration, UWV (the Employee Insurance Agency, an autonomous administrative authority commissioned by SZW to implement employee insurances and provide labour market and data services) and municipalities. A hotline was set up where citizens and businesses can report rogue employment agencies. Minister Asscher (SZW) has also concluded agreements with Poland, Romania and Bulgaria to exchange data on rogue employment agencies.

Finally, when it comes to international cooperation, labour exploitation will be a subproject of EMPACT THB. The Inspectorate SZW will take part in this subproject for the Netherlands.

3) Initiatives regarding trafficking in minors

Several initiatives can be referred to in relation to GRETA's recommendations on child victims of trafficking. During its third term, the Task Force will also focus on fighting trafficking of underage victims. Being a victim of trafficking is especially traumatic for underage victims. In many cases these victims are persons who were already in a vulnerable position before they became victims. This is why many measures have already been taken to protect underage victims and this will remain a priority in the years to come.

When it comes to underage victims, improvements can be made in the (youth) care chain and in its connection with the organisations working in the field of criminal justice. In January 2014 youth care organisations announced an initiative to enhance the cooperation with other organisations in order to improve help and support for child victims of human trafficking. For this task a special commission

has been established. One of the proposals is to establish a national expertise centre to combine and share the knowledge of the organisations involved. The commission will also look at recognising signs of child trafficking and the registration of child victims. Youth Care has also joined the Task Force.

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The project to develop a National Referral Mechanism also aims to provide more insight in the different procedures and regulations on care for underage victims and will consider other issues relevant for underage victims such as (multidisciplinary) identification, registration, crisis shelter and assistance to EU citizens.

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12 June 2014

Our reference
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At present little is known about the effectiveness of interventions for child victims of trafficking. The Verwey Jonker Institute has made a quick scan of the active elements in interventions that are currently used. The results of this study provide input for the multi-year study to begin soon at ZonMw (the Netherlands Organisation for Health Research and Development) into the effectiveness of the treatment of child victims. This study will also look at the effects of joint accommodation of boys and girls at youth care facilities.

Finally, a film has been developed entitled "The prettiest chick on the web" (De mooiste chick van het web). The film aims to inform young people, parents and teachers about the risks involved in the use of social media and to help them identify signs of human trafficking or loverboy issues. Schools can order a free teaching package to use with the film.

4) Residence regulation for trafficking in human beings

When it comes to GRETA's recommendations on the Residence regulation for trafficking in human beings, the Netherlands would like to refer to the following initiatives. Recently, two studies have been completed about the residence permit on trafficking human beings. In one of the studies the residence permit in other countries (Belgium, Italy and United Kingdom) was looked at. The other study concerned the possible misuse of the residence regulation for victims of THB. The pilot concerning the treatment of declarations of victims of THB is also being evaluated at this moment. The outcomes of these three studies will determine if any changes to the current residence regulation for victims of THB will be necessary. This project is closely linked to the project to set up a National Referral Mechanism.

5) Third term of the Task Force on Human Trafficking

Since the visit of the GRETA delegation it has become clear that the Task Force will continue its work in a third term (2014-2016). The new agenda of the Task Force has been finalised. Some of the issues the Task Force will focus on in its third term are:

- Labour exploitation and other forms of trafficking, including new phenomena;
- Trafficking of underage victims;
- Tackling abuses in the prostitution sector;
- Enforcement and investigation on the internet;
- The administrative approach to THB;
- The balance between the interests of assistance and care for victims on the one hand and investigations on the other hand; and
- Safeguarding the cooperation that has been brought about by the Task Force and the results of Task Force activities for future use.

Several of these issues are linked to recommendations made by GRETA.

To make sure that more (smaller) local governments will be involved in the work of the Task Force, the Association of Netherlands Municipalities (VNG) and the National Information and Expertise Centre (LIEC) have joined the Task Force in its third term. As mentioned, Youth Care has also joined the Task Force, with a view to the care for underage victims.

6) New statistics

On 13 May 2014, the Dutch rapporteur published new statistics on trafficking in human beings for the period 2008-2012 in a report called "Mensenhandel in en uit beeld II. Cijfermatige rapportage 2008-2012"¹ (Trafficking in Human Beings. Visible and Invisible. A quantitative report 2008-2012). These statistics relate to among other things registered (possible) victims, temporary residence permits for (possible) victims, suspects known to the police, prosecuted suspects and convicted offenders and compensation to victims. A supplement to the report is expected in the near future, containing the most recent statistical data on (possible) victims who were reported to CoMensha in 2013. An English version will follow.

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¹ The report can be found on <http://www.nationaalrapporteur.nl/publicaties/mensenhandel-in-en-uit-beeld-II/>.

Comments on GRETA's report

Please find below some comments regarding specific passages of GRETA's report:

Paras 19, 25 and 63

As mentioned under "Recent developments", the agenda of priorities for the next term of the Task Force (2014-2016) has been finalised.

Para 34

In addition to the policy advisor responsible for policy and regulations relating to prostitution and the fight against sexual exploitation, larger municipalities also have a policy adviser responsible for the fight against TBH in general.

Para 63

As mentioned under "Recent developments", Youth Care the Netherlands (JN) has now joined the Task Force.

Para 138

The sentence "among the measures announced to combat this alleged abuse of the Residence regulation for THB are the revocation of the temporary residence permit as soon as a prosecutor decides not to prosecute" is not entirely correct (even though this is what was mentioned in the comments on the draft report). The temporary residence permit will not be withdrawn during the application for a residence permit on humanitarian grounds, after the prosecutor has decided not to prosecute.

Para 140

The actions referred to in this paragraph are inspections, not raids.

Para 141

In addition to what is mentioned about the proactive detection of possible victims of THB in massage parlours in this paragraph:

- In October 2013 there was a national action day of multi-agency inspections of massage parlours in Amsterdam, The Hague and Rotterdam.
- Since the national action day, the mayor of Amsterdam has closed 3 massage parlours on the basis of the local administrative law on prostitution and sent out several warning letters.

Para 147

The first sentence of this paragraph might be understood to imply that there is no identification procedure for children who are victim of trafficking human beings in the asylum procedure. However, for unaccompanied foreign minors there is a special identification procedure and a close cooperation between NIDOS (responsible for the guardianship of the children), Police, COA (protected shelter) and IND. See also paragraphs 163 and 164. Besides that, a special project has started to improve the procedure and identification procedure for unaccompanied minors who are victims of trafficking human beings in the asylum procedure.

Para 154

The first sentence of this paragraph might be read to mean that there are many requirements that victims need to fulfill before they are provided with shelter in

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the Netherlands. In fact, the criteria mentioned do not determine *if* victims are provided with shelter, but only *which type of accommodation* they are provided with. All possible victims of THB are provided with shelter at the slightest indication of THB. The aim of the Dutch government is to provide victims with tailor-made shelter and assistance, that is: adapted to the needs of the individual victim, as mentioned above in the text about the project to set up a National Referral Mechanism. This is why there are different types of shelter available. The criteria mentioned help determine which shelter is suitable for which victim.

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Para 157

At this moment there is no waiting list for COSM. The occupancy rate of the COSM shelters varies, it also happens that beds are temporarily empty. The situation that a victim has no accommodation has only occurred occasionally since twenty extra permanent places became available in 2012 (which made a total of 70 places). When a victim cannot be placed in the COSM shelters on the same day, CoMensha will try to find an emergency bed in a regular women's shelter for one or two nights. (To make sure that victims of violence who are in need of shelter can always find a safe place, all the women's shelters have an emergency room where victims of violence can be placed 24-7). This situation is not ideal and the policy (i.e. the increase of the COSM places) is aimed at preventing it.

Para 179

Even if possible victims decide during the reflection period that they do not want to cooperate with the criminal investigation, they are given the whole three months of the reflection period. The Netherlands is not aware of any instances where the suspension of deportation was withdrawn beforehand. Ofcourse, victims are entitled to make their own decisions and some may therefore decide to leave before the reflection period is over.

Para 219

The Bill aimed at criminalising irregular stay in the Netherlands has been withdrawn. The government has decided not to criminalise irregular stay.

Recommendation 11: GRETA urges the Dutch authorities to ensure that assistance provided to foreign victims of THB is not linked to investigations or prosecutions being pursued

The Council of Europe Convention gives parties the option of granting a residence permit because of the victim's cooperation or because of the individual's situation. The Netherlands offers both options.

During the three-month reflection period, as part of the regulation for victims of trafficking in human beings, possible victims get assistance without having to cooperate with the investigation. After this period, or sooner, possible victims of THB can get a residence permit for trafficking in human beings. When the prosecution is not being pursued, the possible victim can apply for a residence permit on humanitarian grounds. This procedure also examines if assistance and care is available in the country of origin. In practice, this takes a couple of months. During this time assistance is still provided.

Finally, as mentioned under Recent developments, the Dutch authorities are currently developing a National Referral Mechanism (NRM) for victims of human trafficking. One of the purposes of this project is to improve the cooperation

between the organisations providing care for victims and those pursuing criminal justice. This in order to offer victims assistance adapted to their needs.

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Recommendations 12: Further, GRETA urges the Dutch authorities to ensure that victims receive adequate assistance uninterruptedly from the moment they are identified. For this purpose, the Dutch authorities should:

- avoid any bottleneck between specialised shelters for foreigners (COSM), accommodating victims during the reflection period, and follow-up shelters or facilities;
- ensure continuity in the psychological and medical support provided to victims after the reflection period, including by clarifying and reinforcing the role of regional care co-ordinators.

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and

13: GRETA also considers that the Dutch authorities should:

- review the entry requirements to COSM shelters, in particular the conditions excluding victims with an ongoing or past asylum application;
- ensure that all victims, including EU and Dutch nationals, are provided with assistance adapted to their individual needs.

Please refer to the text on the project to set up a National Referral Mechanism under "Recent developments" for a response to these recommendations.

Where victims who have applied for asylum are concerned, they are able to stay in the COSM shelters if there is room available and they are in need of a specific type of assistance. This has happened a number of times. If this is not the case, regular shelters for asylum seekers or victims are available, depending on their needs. In these shelters, victims can also be (and are) provided with the assistance they need, including for example treatment for possible traumas.

Recommendation 14: Moreover, GRETA considers that the Dutch authorities should ensure that placing child victims of "loverboys" in closed shelters should be a measure of last resort and for the shortest appropriate period of time, and should take into account the best interests of the child.

Child victims of loverboys are vulnerable children who need specific treatment. Based on the specific issues of the child, bureau Jeugdzorg (Youth Care) decides which facility is best for the child. In every individual case a decision needs to be taken on the best treatment. In some cases a closed shelter is the best option to protect the victims against themselves and against the loverboy.

Recommendation 15: Further, GRETA invites the Dutch authorities to keep under review the capacity of the different types of shelters available for male victims of trafficking, to strengthen links between them and secure an adequate allocation of resources for that purpose.

There are at this moment no signals that the existing capacity for male victims is insufficient. The contract for the COSM shelters contain a provision that the structural capacity can be extended upon request of the government. The occupancy rate at Jade, the COSM shelter for male victims, is so low at times that the beds (in one part of the building) are used for female victims instead.

Recommendation 16: GRETA urges the Dutch authorities to ensure, in compliance with the obligations under Article 13 of the Convention, that possible victims of trafficking are offered a recovery and reflection period and are able to fully benefit from all the measures of protection and assistance envisaged in Article 12, paragraphs 1 and 2, of the Convention during this period.

The Dutch authorities agree with this recommendation. Possible victims of trafficking are offered a reflection period of three months and all the measures of protection and assistance envisaged in Article 12, paragraphs 1 and 2, of the Convention during this period.

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Recommendation 17: GRETA considers that the Dutch authorities should ensure that victims of trafficking can fully benefit in practice from the right provided under Dutch law to obtain a renewable residence permit when they are unable to co-operate with the authorities and to raise awareness of this possibility among relevant professionals and victims.

The Council of Europe Convention gives parties the option of granting a residence permit because of the victim's cooperation or because of the individual's situation (article 14 paragraph 1). As mentioned, the Netherlands offers both options. Victims of trafficking can therefore fully benefit from the right provided under Dutch law to obtain a renewable residence permit when they are unable to co-operate with the authorities.

Recommendation 18: GRETA invites the Dutch authorities to consider making clearer the criminalisation of the use of services of a victim of THB with the knowledge that the person is a victim of THB.

In addition to the articles mentioned under which clients of forced or underage prostitutes can already be prosecuted, clients of prostitutes below the age of 21 will also be liable to prosecution when the Regulation of prostitution and fight against abuses in the sexual service sector bill (including the amendment bill) becomes law. Recently, on request of the Ministry of Security and Justice, the University of Groningen carried out research on the responsibilities of clients of prostitutes under criminal law. Based on legal document analysis and interviews on the effectivity of the law focused on clients of prostitutes, the research concludes on the one hand that the existing penal provisions do provide room for clients of prostitutes to be held accountable under certain conditions. On the other hand, the research also makes clear that a separate, more extensive, penalisation would also be possible within the Dutch criminal law system. The Christian Union party is preparing a Bill to criminalise the use of services of a victim of sexual exploitation through a separate penalisation. The Minister of Security and Justice sees several practical issues regarding the enforcement of such a criminalisation, but awaits the proposal of the Christian Union Party with interest.

Recommendation 20: GRETA urges the Dutch authorities to ensure that victims having committed an offence under the influence of traffickers are not precluded from obtaining continued residence after the conviction of the perpetrators.

In Dutch legislation it is possible to give victims having committed an offence under the influence of traffickers an temporary residence permit under the Residence Regulation for THB.