



GRETA

Group of Experts on Action
against Trafficking in Human Beings

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

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 worldwide 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 into place border control measures to prevent and detect trafficking in human beings.

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

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

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

GRETA is composed of fifteen independent and impartial experts chosen for their recognised competence in the fields of human rights, assistance and protection of victims, and action against trafficking in human beings, or because of their professional experience in the areas covered by the Convention. The task of GRETA is to evaluate the implementation of the Convention by the Parties, following a procedure divided into rounds. At the beginning of each round, GRETA defines autonomously the provisions to be monitored and determines the most appropriate means to carry out the evaluation, being guided by the Rules of procedure for evaluating implementation of the Convention adopted at GRETA's 2nd meeting (16-19 June 2009). GRETA has decided that the duration of the first evaluation round shall be four years starting at the beginning of 2010 and finishing at the end of 2013.

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

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

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

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

Executive summary

The authorities of Bosnia and Herzegovina have taken a number of steps in the field of action against trafficking in human beings. Criminal legislation at the state level has been amended to include the offence of trafficking in human beings and makes it possible to establish the criminal liability of legal persons for their involvement in THB. Since 2001 the Government of Bosnia and Herzegovina has adopted several state action plans for the prevention of THB. In 2003 the Council of Ministers of Bosnia and Herzegovina established the post of National Co-ordinator for combating trafficking in human beings, who is responsible for ensuring co-ordination of all relevant actors at the state and entity levels with the view to achieving an effective implementation of State Action Plans.

Notwithstanding these measures, a number of crucial issues remain to be resolved in order to bring Bosnia and Herzegovina's anti-trafficking legislation and practice in full conformity with the Convention. GRETA notes that the implementation of the Convention at entity level falls short of its requirements in a number of respects. In particular, the criminal codes of Republika Srpska, the Federation of Bosnia and Herzegovina and the Brčko District do not contain a provision criminalising trafficking in human beings. GRETA takes note of the planned amendments to the respective criminal codes, but stresses the urgency of incorporating the offence of human trafficking in a consistent manner in all criminal codes applicable on the territory of Bosnia and Herzegovina.

GRETA welcomes the independent evaluation of the implementation of the State Action Plan for 2008-2012, which served for preparing a draft anti-trafficking strategy and the future state action plan, submitted to the Council of Ministers for adoption. That said, GRETA stresses the importance of ensuring the adequate involvement of and co-ordination among authorities at the entity and cantonal levels in the implementation of the State Action Plan. Further, GRETA considers that the competent authorities should involve more effectively civil society in the discussion and elaboration of anti-trafficking policies and should encourage their participation in the work of the anti-trafficking public bodies.

As regards prevention of THB, GRETA stresses that awareness-raising activities should take into account the assessment of previous measures. GRETA sees the need for carrying out comprehensive campaigns about THB to reach the general public at state and entity levels, as well as targeted initiatives for children and young people. Further, GRETA considers that prevention of THB in the Roma community requires particular attention. In addition, GRETA urges the authorities of Bosnia and Herzegovina to ensure the registration of all children at birth and, bearing in mind that Roma children are a particularly vulnerable group to trafficking, to take all necessary measures to provide them with effective access to education.

Concerning the identification of victims of THB, GRETA is concerned that the current system in Bosnia and Herzegovina risks resulting in an important number of victims of THB not being identified as a result of the connection made between identification and the initiation of criminal cases for trafficking offences. Conflicting competences of the state and entity-level law enforcement bodies create additional obstacles for the identification of victims and impede their access to assistance. GRETA considers that the authorities should introduce a national referral mechanism, defining the roles and procedures of all persons and competent NGOs who may come into contact with victims of trafficking and ensure that all relevant actors adopt a more proactive approach to identify possible victims of THB.

The State Ministry of Security and the State Ministry of Human Rights and Refugees are the two main bodies responsible for ensuring assistance to victims of THB in Bosnia and Herzegovina. The provision of assistance is delegated to four NGOs on the basis of memoranda of understanding. Some measures of assistance to victims of THB are also provided by social welfare centres throughout the country, which, however often suffer from financial and human resource shortages, limiting their capacity to assist victims in an efficient manner. GRETA urges the competent authorities to take further measures to provide victims with adequate assistance, in particular to ensure that all assistance measures provided for in law are guaranteed in practice, and that adequate funding is provided to NGOs responsible for assisting victims. In addition, GRETA stresses the need to facilitate the reintegration of victims of trafficking into society and avoid re-trafficking.

GRETA underlines the need to ensure that victims of trafficking receive compensation. To this effect, the authorities should review the current legislation regarding compensation obtained from perpetrators. They should also set up a state compensation scheme accessible to victims of trafficking.

GRETA expresses concern over the significant differences concerning the implementation of criminal legislation at state and entity levels when combating THB. In addition, GRETA considers that the authorities should identify gaps in the investigation procedure and the presentation of cases in court, inter alia, with a view to ensuring that crimes related to THB are investigated and prosecuted effectively, leading to proportionate and dissuasive sanctions. Further efforts should be made to investigate proactively THB offences, with a special emphasis on cases involving trafficking for the purpose of labour exploitation and trafficking of children. Greater knowledge and awareness of THB, including the rights of victims, needs to be achieved among judges, prosecutors, investigators and lawyers.

Finally, GRETA urges the authorities of Bosnia and Herzegovina to take all necessary measures to effectively protect all victims of THB, especially children, during the investigation and to prevent their intimidation during and after court proceedings.

I. Introduction

1. Bosnia and Herzegovina deposited the instrument of ratification of the Council of Europe Convention on Action against Trafficking in Human Beings (“the Convention”) on 11 January 2008. The Convention entered into force in respect of Bosnia and Herzegovina on 1 May 2008.¹

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, Bosnia and Herzegovina being in the second group of 10 Parties.

3. In accordance with Article 38 of the Convention, GRETA proceeded with the examination of the measures taken by Bosnia and Herzegovina 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 Bosnia and Herzegovina on 11 February 2011, the deadline for submitting the reply being 1 September 2011. Bosnia and Herzegovina submitted its reply on 12 August 2011.

4. In preparation of this report, GRETA used the reply to the questionnaire by Bosnia and Herzegovina, other information collected by GRETA and information received from civil society. An evaluation visit to Bosnia and Herzegovina took place from 14 to 17 May 2012. It was carried out by a delegation composed of:

- Ms Diana Tudorache, member of GRETA;
- Ms Leonor Ladrón de Guevara y Guerrero, member of GRETA;
- Mr David Dolidze, Administrator at the Secretariat of the Council of Europe Convention on Action against Trafficking in Human Beings;
- Mr Gerald Dunn, Administrator at the Secretariat of the Council of Europe Convention on Action against Trafficking in Human Beings.

5. During the visit, the GRETA delegation held meetings with representatives of relevant ministries and other public bodies at the federal level, as well as with officials at the entity level in Republika Srpska, the Federation of Bosnia and Herzegovina, and the Brčko District (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 civil society actors active in the field of action against trafficking in human beings (THB), as well as with intergovernmental organisations present in Bosnia and Herzegovina. GRETA is grateful for the information provided by them.

7. Furthermore, during the visit to Bosnia and Herzegovina, the GRETA delegation visited two shelters for victims of trafficking in human beings run by NGOs and funded by the authorities, located in different parts of the country.

8. GRETA wishes to place on record the assistance provided to its delegation by the contact person appointed by the authorities of Bosnia and Herzegovina, Mr Samir Rizvo, National Co-ordinator for Combating Trafficking in Human Beings.

9. The draft version of the present report was adopted by GRETA at its 16th meeting (26-30 November 2012) and was submitted to the authorities of Bosnia and Herzegovina on 21 December 2012 for comments. The authorities’ comments were received on 15 February 2013 and were taken into account by GRETA when drawing up its final evaluation report, which was adopted at GRETA’s 16th meeting (11-15 March 2013).

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

II. National framework in the field of action against trafficking in human beings in Bosnia and Herzegovina

1. Overview of the current situation in the area of trafficking in human beings in Bosnia and Herzegovina

10. According to the authorities, Bosnia and Herzegovina used to be a country of destination of victims of trafficking in human beings until the late 1990s, but it has since also become a country of origin and transit. National trafficking in human beings (i.e. within the territory of the country) has emerged as a problem: in 2009, 58 victims were identified as trafficked within the country and 11 transnationally. In 2010, 21 of the identified victims were subjected to national THB and four to transnational THB; 17 of the victims were subjected to forced labour and eight to sexual exploitation. In 2011, there were 35 identified victims of THB, including 16 women, the majority of whom (13) were subjected to sexual exploitation, and 19 children (12 girls and seven boys). As regards the forms of exploitation of the children, four girls were subjected to sexual exploitation, three to forced begging and five were sold for forced marriage; six boys were subjected to forced begging and one to sexual exploitation. Six of the victims identified in 2011 were foreign nationals (three from Serbia and one each from Croatia, “The former Yugoslav Republic of Macedonia”, the United States of America and Kosovo^{*}) and two were of uncertain nationality. In 2012, 39 victims were identified, of whom 36 were female and three were male. There were 19 children among these victims. The majority of the victims (27) were citizens of Bosnia and Herzegovina. The foreign victims originated from Serbia (10 victims), Germany (one victim) and Bulgaria (one victim). As regards the forms of exploitation, 23 victims were trafficked for sexual exploitation, 13 were victims of labour exploitation and three victims were exploited following forced marriages.

11. As acknowledged by public officials and NGO representatives met during the evaluation visit, the above-mentioned figures of identified victims do not accurately reflect the scale of the phenomenon. This is due to shortcomings in the procedure for identification of victims of THB, lack of training of frontline staff and divergent legislation at the state and entity levels. There are indications that trafficking for the purposes of forced begging and forced marriage, in particular of children, has taken worrying proportions over the last few years, especially in the Roma community.

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

a. Legal framework

12. At the international level, in addition to the Council of Europe Convention on Action against Trafficking in Human Beings, Bosnia and Herzegovina 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), the UN Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol, and the UN Convention on the Rights of the Child and its Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography. Bosnia and Herzegovina is also Party to relevant conventions elaborated by the International Labour Organisation (ILO)², as well as a number of Council of Europe conventions in the criminal field which are relevant to action against THB³.

^{*} All references to Kosovo, whether the territory, institutions or population, in this text shall be understood in full compliance with United Nation’s Security Council Resolution 1244 and without prejudice to the status of Kosovo.

² Convention concerning the Abolition of Forced Labour (No. 105) and Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (No. 182).

³ European Convention on Extradition and its two Additional Protocols; European Convention on Mutual Assistance in Criminal Matters and its Second Additional protocol; European Convention on the Transfer of Proceedings in Criminal Matters, Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime; Criminal Law Convention on Corruption and its Additional Protocol; Convention on Cybercrime and its Additional Protocol concerning the

13. Fulfilment of the international legal obligations of Bosnia and Herzegovina is within the remit of the state authorities. Pursuant to Article III 2.b of the Constitution of Bosnia and Herzegovina, “each Entity shall provide all necessary assistance to the government of Bosnia and Herzegovina in order to enable it to honour the international obligations of Bosnia and Herzegovina”.

14. The legislative framework in Bosnia and Herzegovina is arranged in accordance with the organisational structure of the state⁴, where the power of the central government is limited, while a considerable degree of autonomy is given to the governments of the two constituent entities, the Federation of Bosnia and Herzegovina and the Republika Srpska, and the autonomous Brčko District.

15. The anti-trafficking legal framework consists of legislation at the level of the state, the two entities and the Brčko District. While there are four criminal codes (CC) in Bosnia and Herzegovina⁵, only the state CC defines THB as a criminal offence within the meaning of the Convention. The provisions contained in the three other CC do not criminalise THB as such, but tackle some of the forms of THB through other offences, such as soliciting for the purpose of prostitution. Certain provisions of state laws on the protection of witnesses under threat and vulnerable witnesses, and on the movement and stay of aliens and asylum, are also relevant to action against THB.

16. As regards secondary legislation relevant to action against THB, particular reference should be made to:

- the Decision of the Council of Ministers of Bosnia and Herzegovina of 17 July 2003 establishing the office of the National Co-ordinator for Combating Trafficking in Human Beings;
- the Rulebook on protection of alien victims of THB, approved by a decree of the State Security Minister in 2004;
- the Rules on the protection of victims and witnesses of THB nationals of Bosnia and Herzegovina, adopted by the Council of Ministers of Bosnia and Herzegovina in 2007.

b. State Action Plan for the Prevention of Trafficking in Human Beings

17. Since 2001 the government of Bosnia and Herzegovina has adopted three state action plans for combating trafficking in human beings. The State Action Plan for 2008-2012 is composed of the following parts: support systems (which covers legal and regulatory measures, institutional co-ordination, capacity building, information management, financing, monitoring and evaluation); prevention; protection of victims and witnesses; prosecution; and international co-operation. The State Action Plan acknowledges that Bosnia and Herzegovina is a country of origin, transit and destination of victims of trafficking. It covers both transnational and national trafficking and includes measures to address trafficking for the purpose of sexual exploitation, forced labour and forced begging. Supervision over the implementation of the State Action Plan is one of the responsibilities of the National Co-ordinator for combating trafficking in human beings, who produces annual reports dedicated to this issue.

criminalisation of acts of a racist and xenophobic nature committed through computer systems; Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism.

⁴ As laid down in the Constitution of Bosnia and Herzegovina and the General Framework Agreement for Peace in Bosnia and Herzegovina (the so-called “Dayton Agreement”) reached in November 1995 and formally signed in Paris on 14 December 1995.

⁵ Criminal Code of Bosnia and Herzegovina, Criminal Code of the Federation of Bosnia and Herzegovina, Criminal Code of the Republika Srpska, and Criminal Code of the Brčko District.

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

a. National Co-ordinator for combating trafficking in human beings and illegal immigration and State Group

18. The post of National Co-ordinator for combating trafficking in human beings and illegal immigration (hereafter, the National Co-ordinator) was created by decision of 17 July 2003 of the Council of Ministers of Bosnia and Herzegovina⁶. The National Co-ordinator is appointed for a term of four years by the Council of Ministers upon a proposal made by the State Minister of Security. The National Co-ordinator's role is to ensure co-ordination of the activities related to combatting trafficking in human beings of relevant stakeholders, to take the lead on anti-trafficking activities and to establish contacts with competent ministries at the levels of the state, the entities, the Brčko District and the local authorities.

19. The function of National Co-ordinator is not a full-time post and the current post-holder is also Head of Department of international relations and European integration within the State Ministry of Security. The Office of the National Co-ordinator has a staff of two persons who provide administrative support and carry out research. The Office was meant to be reinforced with two additional staff members, but budgetary constraints have resulted in this being postponed.

20. The aforementioned decision of the Council of Ministers also provides that the competent ministries appoint officials responsible for co-ordination in order to assist the National Co-ordinator in fulfilling his role, thus creating the so-called "State Group" which is chaired by the National Co-ordinator. The State Ministry of Security appoints two officials for this purpose, while other state ministries (Human Rights and Refugees, Justice, and Foreign Affairs) appoint one each. The State Prosecutor also appoints a representative who is responsible for monitoring THB cases. The State Group's meetings are convened by the National Co-ordinator. The State Group follows the implementation of the State Action Plan, each ministry and agency carrying out activities in their respective fields of competence. According to the authorities, it is envisaged to expand the composition of the State Group by including a representative of the Ministry of Civil Affairs and representatives of the entity and district governments.

21. In 2003 four anti-trafficking thematic subgroups were set up under the above-mentioned State Group, dealing respectively with prevention, protection, prosecution, and children. However, four years later, it was decided to redirect the limited human and financial resources towards co-ordination of anti-trafficking efforts at the local level and the thematic groups were discontinued.

b. Strike Force for combating trafficking in human beings

22. The Strike Force for combating trafficking in human beings (hereafter, Strike Force) was set up in 2003 with a view to co-ordinating the application of criminal legislation in trafficking cases. The Strike Force is composed of representatives of law enforcement agencies, in particular the State Information and Protection Agency (SIPA), which is the official state police agency of Bosnia and Herzegovina, the Border Police, the tax agency, public prosecutors (two from the State Prosecutor's Office, two from the Prosecutor's Office of the Federation of Bosnia and Herzegovina, one from the Prosecutor's Office of the Republika Srpska, and one from the Prosecutor's Office of Brčko District), as well as two representatives of the Federation of Bosnia and Herzegovina, two of Republika Srpska, and one of the Brčko District.

⁶ Decision on the procedures and ways of co-ordination of the activities to suppress trafficking in human beings and illegal migration in Bosnia and Herzegovina and appointment of the function of National Co-ordinator for Bosnia and Herzegovina, adopted by the Council of Ministers on 17 July 2003.

23. The Strike Force functions as an operational team co-ordinated by the National Co-ordinator. When there are reports of suspected trafficking in human beings, the Strike Force sets up a mixed team comprising a prosecutor and local police officers so as to optimise co-ordination. Within the framework of the Strike Force, police officers and prosecutors discuss all THB cases and decide who should take the lead in the investigation and prosecution in order to avoid any conflicts of competence.

24. The National Co-ordinator also co-operates closely with liaison officers from the different law enforcement agencies.

c. Regional Monitoring Teams

25. Pursuant to the operational plan for the implementation of the State Action Plan for 2008-2012, four Regional Monitoring Teams (RMTs) were set up in Banja Luka, Mostar, Tuzla and Sarajevo, with a view to improving co-ordination in the implementation of the measures contained in the State Action Plan at local level. Comprehensive guidelines on the functioning of these RMTs have been drawn up by the State Ministry of Security and the Ministry of Human Rights and Refugees of Bosnia and Herzegovina, in consultation with relevant governmental and non-governmental stakeholders. According to these guidelines, the aim of the RMTs is to formalise links between stakeholders at local level in order to optimise the exchange of information and provide better protection to victims.

26. According to the guidelines, the RMTs should include representatives of the central and local authorities, the state and local prosecutor's offices, law enforcement agencies (SIPA, Border Police, Service for Foreigners Affairs) and NGOs. Thus the Sarajevo RMT includes representatives from SIPA, the Border Police, the canton police, the foreign affairs service, the social welfare service, the Ministries of the Interior and Justice of the Federation of Bosnia and Herzegovina, the tax agency, the labour inspectorate, and NGOs.

27. Each RMT is co-ordinated by a representative of the State Ministry of Security in co-operation with a representative of the regional SIPA office. The RMTs meet on a monthly basis. The heads of the four RMTs should meet at least twice a year, but in practice such meetings are more frequent as all heads are SIPA officials and have regular contacts.

d. State Prosecutor's Office

28. Apart from prosecuting offences in accordance with the state CC, the State Prosecutor's Office is also responsible for the formal identification of victims of trafficking. If a possible victim of trafficking is detected at the entity level or in the Brčko District, the case is referred to the State Prosecutor's Office which decides whether it can be considered a case of human trafficking and whether the person concerned can be formally identified as a victim of trafficking. As noted above, the State Prosecutor's Office is represented in the State Group and the Strike Force.

e. NGOs and international organisations

29. NGOs play an important role in the action against human trafficking in Bosnia and Herzegovina through awareness raising projects, developing information and educational materials for children, training public officials, detecting possible victims of THB and providing them with assistance, including accommodation.

30. A network of NGOs called RING was established in 2000 to raise awareness of THB and protect women victims from human trafficking. Assistance to victims of trafficking is provided by the NGOs Žena BH, Vaša Prava (Your Rights), Lara and the Foundation of Local Democracy. Two NGOs, Medica Zenica and Emmaüs in Dobož, have been selected through a tender to provide accommodation for victims of trafficking. The GRETA delegation visited two of the shelters managed by them (see paragraphs 110 and 111).

31. Many training programmes have been provided thanks to the strong presence of international NGOs such as La Strada International and Save the Children. Training and awareness raising activities are also organised by local NGOs.

32. International organisations active in the field of action against human trafficking (the OSCE Mission to Bosnia and Herzegovina, UNHCR, UNICEF, ICMPD) have contributed over the years to raising awareness and providing training to different professionals, in particular law enforcement officials and the judiciary.

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

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

33. 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 of 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”.⁷

34. THB constitutes an offence to the dignity and fundamental freedoms of the human being and thus a grave violation of human rights. GRETA emphasises the obligations of states to respect, fulfil and protect human rights, including by ensuring compliance by non-state actors, in accordance with the duty of due diligence. The human rights-based approach entails that a state that fails to fulfil these obligations may, for instance, be held accountable for violations of the European Convention on Human Rights (in case the state concerned is a party to it). This has been confirmed by the European Court of Human Rights in its judgment in the case of *Rantsev v. Cyprus and Russia*, where the Court concluded that THB “within the meaning of Article 3(a) of the Palermo Protocol and Article 4(a) of the Anti-Trafficking Convention, falls within the scope of Article 4 of the European Convention on Human Rights”⁸ (which prohibits slavery, servitude and forced or compulsory labour). The Court further concluded that Article 4 entails a positive obligation to protect victims or possible victims, as well as a procedural obligation to investigate trafficking.⁹

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

36. GRETA wishes to stress the need for states to also address THB as a form of violence against women and to take account of gender-specific types of exploitation, as well as the particular situation of child victims of THB, in line with the relevant international legal instruments.¹⁰

⁷ Addendum to the report of the United Nations High Commissioner for Human Rights (E/2002/68/Add. 1), <http://www.ohchr.org/Documents/Publications/Traffickingen.pdf>

⁸ *Rantsev v. Cyprus and Russia*, application No. 25965/04, judgment of 7 January 2010, paragraph 282, ECHR 2010.

⁹ 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; *C.N. v. the UK*, application No. 4239/08, judgment of 13 November 2012.

¹⁰ 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.

37. The Constitution of Bosnia and Herzegovina gives direct effect to the European Convention on Human Rights in domestic law. The state CC includes the offence of trafficking in human beings in the chapter on crimes against humanity and values protected by international law. Further, in the State Action Plan for 2008-2012, trafficking in human beings is defined as a serious violation of human rights and fundamental freedoms. According to the authorities, the Court of Bosnia and Herzegovina, which is the competent court for offences contained in the state CC, emphasises in its judgments the close link between THB and violations of Article 4 of the European Convention on Human Rights.

38. 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 authorities of Bosnia and Herzegovina in these fields.

b. Definitions of trafficking in human beings and victims of THB

i. *Definition of “trafficking in human beings”*

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

40. Pursuant to Article 186, paragraph 1, of the state Criminal Code of Bosnia and Herzegovina, trafficking in human beings is defined as follows: “whoever, by use of force or threat of use of force or other forms of coercion, abduction, fraud or deception, abuse of power or influence or a position of vulnerability, or of the giving or receiving of payments or benefits to obtain the consent of a person having control over another person, recruits, transports, transfers, harbours or receives a person for the purpose of the prostitution of that person or other forms of sexual exploitation, forced labour or services, slavery or similar practices, servitude, the removal of organs or other types of exploitation, shall be punished by imprisonment of no less than three years”. This definition is in line with the Convention.

41. As regards children (defined as persons of less than 18 years of age), Article 186, paragraph 2, of the state CC stipulates that whoever commits the offence referred to in paragraph 1 of Article 186 against a child will be punished by imprisonment of no less than five years. This provision does not refer to the use of any means listed in the definition of the offence of trafficking, which is also in line with the Convention.

42. Currently only the state CC provides for the offence of trafficking in human beings. The GRETA delegation was informed that the offence of THB was in the process of being incorporated in the criminal codes of the Federation of Bosnia and Herzegovina, Republika Srpska and the Brčko District, using a wording similar or identical to that of the state CC. **GRETA urges the competent authorities to ensure that the offence of human trafficking is incorporated in a consistent manner in all criminal codes applicable on the territory of Bosnia and Herzegovina.**

43. For the time being, the criminal codes of the Federation of Bosnia and Herzegovina, Republika Srpska and the Brčko District contain the offence of soliciting for the purpose of prostitution. As a result, cases of human trafficking are being prosecuted as such only at state level. However, the situation is expected to change after the introduction of the offence of THB in the three other criminal codes.

ii. Definition of “victim of THB”

44. 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 THB as such is essential as it gives rise to their entitlement to the broad range of protection and assistance measures set out in the Convention.

45. Pursuant to the Rules on the protection of victims and witnesses of THB nationals of Bosnia and Herzegovina, adopted by the Council of Ministers of Bosnia and Herzegovina in 2007, a victim is any physical person who has been subjected to human trafficking. This definition applies only to nationals of Bosnia and Herzegovina. The Rules are a soft law instrument and only state level authorities are expected to apply them. The entities and the Brčko District authorities are not required to follow them, but, as stated by the authorities, they have chosen to do so. As regards foreign nationals, in 2004 the State Ministry of Security adopted a Rulebook on the protection of alien victims of trafficking in persons, which however does not contain a definition of victim of trafficking. The Rulebook is a by-law of the Law on the movement and stay of aliens and asylum and its application is under the responsibility of the Service for Foreigners Affairs and the Border Police.

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

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

i. Comprehensive approach and co-ordination

47. One of the aims of the Convention is to design a comprehensive framework for the protection and assistance of victims of THB. 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).

48. As indicated in paragraph 20, the State Group, which is chaired by the National Co-ordinator and ensures the co-ordination of anti-trafficking action, includes representatives of different ministries and public bodies. However, NGOs are not represented in this co-ordination mechanism. Consultation with NGOs is carried out by the National Co-ordinator through separate meetings.

49. The four Regional Monitoring Teams (RMTs) include representatives of public bodies from all levels (state, entity and cantonal), as well as NGOs. However, GRETA was informed that RMTs usually meet in restricted composition, limited to representatives of the law enforcement agencies and prosecution authorities. RMTs meet once every three months. Further, the National Co-ordinator can organise meetings with the heads of RMTs, but there has so far been only one such meetings.

50. The State Action Plan for 2008-2012 sets forth specific objectives aiming to address areas where difficulties were identified during the evaluation of the previous action plan. It is accompanied by an operational plan which contains a timetable for the completion of specific measures taken to achieve each objective, and assigns responsibility for the implementation of the said measures to the state and entity level ministries or other bodies. The Office of the National Co-ordinator prepares annual reports concerning the implementation of the State Action Plan.

51. An independent evaluation of the implementation of the State Action Plan for 2008-2012 was carried out by a university consultant in 2012. GRETA welcomes this development. The results of this evaluation were discussed among relevant actors, including NGOs, and a draft anti-trafficking strategy was prepared and sent to public bodies and other organisations for comments. The draft strategy and the future state action plan which accompanies it have been submitted to the Council of Ministers for adoption.

52. Representatives of public bodies and NGOs met by the GRETA delegation agreed that the involvement of the authorities at the entity and cantonal levels in the implementation of the State Action Plan needs to be strengthened. At the same time, a greater degree of co-ordination needs to be achieved among state and entity-level authorities in order to ensure that all measures intended to prevent human trafficking in Bosnia and Herzegovina, identify and protect its victims, and prosecute and punish traffickers are implemented in practice.

53. Regardless of the involvement of NGOs in anti-trafficking activities, only a limited number of NGOs participate in the Regional Monitoring Teams and none are represented in co-ordinating bodies at the state level. As of 2010, the number of NGOs receiving state funding for the provision of assistance of victims of trafficking has been decreased. According to the authorities, this was done to consolidate the available funds for financing NGOs which provide quality assistance and adequate accommodation to victims of trafficking. In practice, however, it appears that due to the difficult budgetary situation, NGOs rely mostly on funding from local authorities or foreign donors. Further, the exchange of information between public bodies and NGOs concerning their respective anti-trafficking activities is unsatisfactory, which prevents the co-ordination of activities and achieving a sustainable impact.

54. GRETA urges the authorities of Bosnia and Herzegovina to ensure, in close co-operation with the authorities of the entities and the Brčko District, that anti-trafficking legislation and policies are coherent and are effectively implemented and assessed. Particular attention should be paid to preventing and combating trafficking within Bosnia and Herzegovina. The responsible authorities should also pursue regular exchanges of information concerning all aspects of THB and aim for a greater co-ordination of their activities.

55. GRETA considers that the authorities should ensure that meetings of co-ordinating bodies (especially the State Group) take place regularly, and should increase the effectiveness of participation of all public bodies involved in the implementation of anti-trafficking measures at the state and entity levels. GRETA encourages the National Co-ordinator to intensify efforts for greater co-ordination of activities with the Regional Monitoring Teams.

56. Further, GRETA considers that the authorities of Bosnia and Herzegovina, the two entities and the Brčko District should effectively involve NGOs working in the anti-trafficking field in the discussion and elaboration of anti-trafficking policies and promote their participation in the work of the anti-trafficking public bodies.

ii. Training of relevant professionals

57. According to the authorities, in 2011, 120 social workers, 79 labour inspectors, 255 lecturers, 188 school teachers, 35 prosecutors, 80 police officers, 30 representatives of the ministries of labour, social policy, education and health, and 22 representatives of NGOs received training on trafficking in human beings at the state and entity levels. The training is organised in a mixed format and involves 20 to 30 participants from different institutions and organisations. Its content is related to the identification of victims, prosecution of traffickers, national and transnational referral mechanisms, provision of assistance to victims, etc. The educational material used during the training is based on international and domestic legislation, instructions, handbooks and guidelines developed on the subject. The training is provided by local experts with experience in combating trafficking.

58. In 2008-2011 the State Ministry of Security organised training on the identification of foreign victims of THB within the training programme covering migration and asylum issues. The Ministry is preparing a new programme for 2012-2015 with a separate training module on the identification of foreign victims of trafficking. The training is intended for officials from the Service for Foreigners Affairs, the State Ministry of Foreign Affairs, the Border Police and NGOs. The authorities intend to organise one training session per year for 25 persons.

59. Training on THB for police officers is provided as part of the general curriculum of police academies. Some law enforcement officials met by the GRETA delegation during the visit expressed concern that the training tended to focus on international and domestic legislation and standards, with little or no reference to practical matters relevant to frontline staff, such as indicators for identifying victims of trafficking. The GRETA delegation was also informed that significant staff turnover diminished to some degree the effectiveness of the training.

60. The GRETA delegation was informed that judges receive general training twice a year on the basis of a training manual developed in 2007-2008. Judges and prosecutors must attend at least three days of training per year, and every year THB is included in the programme. Each year the centres for the training of judges and prosecutors organise three to four training sessions on THB. According to the authorities, every training session on THB is attended by 20 to 25 judges or prosecutors.

61. As regards other relevant professionals who may come into contact with victims of trafficking (e.g. social workers, health-care staff, labour inspectors, NGO representatives), GRETA understands that training is not provided on a systematic basis. An additional factor which adversely affects the provision of training is that funding is provided mostly from external donors. Due to the perception that human trafficking is diminishing as a problem, external funds previously available for training activities are being re-allocated to other priorities.

62. GRETA considers that the authorities at the state, entity and cantonal level in Bosnia and Herzegovina should increase their efforts, including through funding, to provide regular training on THB-related issues to all relevant professionals. Training programmes should be designed in a manner providing practical knowledge and skills for the identification of victims of trafficking, the assistance and protection of victims, and the prosecution of traffickers (see also paragraphs 92, 106, 115 and 159).

iii. Data collection and research

63. 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 on the performance of 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.

64. Until recently, data on possible victims of THB was collected through the Regional Monitoring Teams (RMTs) by means of a standardised form which had a uniform front page, but whose content was adapted to the public body or NGO providing the data. All information obtained was transmitted to the State Ministry of Human Rights and Refugees. At the time of the evaluation visit, the function of collecting data on THB was in the process of being transferred to the Office of the National Co-ordinator. Once this transfer has been completed, data on THB will be accessed and operated by specifically designated persons. As regards data on criminal cases, it is collected by the law enforcement authorities at state and entity levels.

65. According to the authorities, the office of the National Co-ordinator now collects, twice a year, anti-trafficking data for statistical purposes by means of a special form designed to collect comparable, comprehensive and reliable information from all main actors. This data can be disaggregated by sex, age, type of exploitation, country of origin and/or destination and is only used for statistical and strategic analysis purposes. The authorities have stated that no personal data of victims or perpetrators is collected within this framework.

66. GRETA is not aware of any research on THB-related issues carried out in Bosnia and Herzegovina in recent years. There appears to be a lack of knowledge on the trends and scale of the problem of trafficking in the country.

67. GRETA considers that the authorities of Bosnia and Herzegovina should conduct and support research on trafficking-related issues as an important source of information for future policy measures. Areas where research is particularly needed to shed more light on the extent and nature of the problem of trafficking include child trafficking, internal trafficking, and trafficking in groups particularly vulnerable to trafficking.

68. GRETA also considers that when collecting statistical information from all main actors, the authorities of Bosnia and Herzegovina should take all the necessary measures to respect the right of data subjects to personal data protection, including when NGOs working with victims of trafficking are asked to provide information for the official database.

iv. *International co-operation*

69. 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).

70. In Bosnia and Herzegovina, international co-operation related to action against THB is regulated by the Law on international legal assistance in criminal matters and a number of international agreements to which Bosnia and Herzegovina is a Party. International co-operation is carried out through exchanges of information and experience in action against THB, forensic technologies, criminological research and border control, including detection of falsified travel documents and other means for crossing borders illegally. Whenever possible, such exchange is carried out by means of letters rogatory which specify the type of assistance and request feedback concerning measures taken. The Law on international legal assistance in criminal matters also allows for the possibility to send information spontaneously to other countries.

71. At the bilateral level, the Council of Ministers of Bosnia and Herzegovina has signed co-operation agreements on combating terrorism, illicit drug trafficking and organised crime with Albania, Egypt, Greece, Italy, Montenegro, Romania, the Slovak Republic, “The former Yugoslav Republic of Macedonia” and Turkey. Bilateral agreements on police co-operation and/or co-operation in the field of security have been concluded with Austria, Bulgaria, Croatia, Iran, the Russian Federation, Slovenia and Switzerland. Bosnia and Herzegovina also has an agreement with Hungary on the transfer and acceptance of persons at the border.

72. Bosnia and Herzegovina is a member state of the Southeast European Law Enforcement Centre (SELEC), which has a task force for combating human trafficking. According to the authorities, co-operation in the criminal field with other SELEC members has been successful. Several examples of effective co-operation with Serbia have been cited, involving exchange of evidence in criminal cases and other information.

73. According to the authorities, co-operation with countries outside SELEC can be problematic. For instance, the law enforcement authorities and prosecutors of Bosnia and Herzegovina have reportedly encountered difficulties in obtaining information from their counterparts in Azerbaijan concerning a case of alleged trafficking for the purpose of labour exploitation (see paragraph 155).

74. GRETA refers to the previously mentioned case of *Rantsev v. Cyprus and Russia*, in which the European Court of Human Rights stressed that human trafficking is a problem often not confined to the domestic arena, and therefore the obligation to conduct a domestic investigation is supplemented with a duty, in cross-border trafficking cases, to “co-operate effectively with the relevant authorities of other states concerned in the investigation of events which occurred outside their territories”.¹¹ **GRETA considers that the authorities of Bosnia and Herzegovina should enhance international co-operation in the investigation and prosecution of human trafficking cases, as well as the assistance of victims of THB.**

¹¹ *Rantsev v. Cyprus and Russia*, application No. 25965/04, judgment of 7 January 2010, paragraph 289, ECHR 2010.

2. Implementation by Bosnia and Herzegovina of measures aimed to prevent trafficking in human beings

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

a. Measures to raise awareness and discourage demand

76. The authorities have reported that awareness-raising initiatives regularly take place, through the use of posters, leaflets and television/radio spots. By way of example, the National Co-ordinator participated in the making of a documentary on THB in 2009, with the financial support of the OSCE Mission to Bosnia and Herzegovina, with a view to raising awareness among members of law enforcement agencies, the judiciary, social protection services, as well as the wider public. Another example is the organisation of street events in the largest towns of the country, accompanied by the dissemination of printed materials, and by making announcements on TV, radio and in the printed media on the occasion of the EU Anti-Trafficking Day, 18 October 2011, in co-operation with NGOs and embassies. In 2012 the authorities also organised awareness-raising activities on the occasion of the Safer Internet Day (5 February), emphasising the close connection between abuse of the internet and THB and the importance of reporting any form of online harassment. A booklet with real stories of victims of THB was also disseminated throughout the country (20 000 copies). However, according to civil society representatives met by the GRETA delegation, there has been no large scale campaign aimed at the general public in recent years and awareness raising efforts have slowed down since 2010.

77. GRETA considers that the authorities, be it at state or other levels, should launch a comprehensive campaign for the general public as well as targeted initiatives for groups vulnerable to THB, in order to raise their awareness of the risks of human trafficking.

78. In 2009, some activities were organised by NGOs as part of the project "Prevention of trafficking in children" with the support of the NGO Save the Children, involving a total of 1 158 school children in Herzegovina-Neretva Canton and Dobož and 71 educators. Efforts have also been made to include information on human trafficking in school curricula with support from the IOM, Catholic Relief Services (CRS), USAID and NGOs. A pilot project was launched in 2009 by CRS with a view to training teachers. In the Federation of Bosnia and Herzegovina, human trafficking has been included in the school curricula in six of the 10 cantons, and teachers have been trained accordingly. The Ministry of Education of Republika Srpska has not put in place this programme. In the Brčko District, this initiative has not been officially endorsed, and it is therefore left to teachers who have been trained to decide whether to introduce the subject of human trafficking.

79. In 2011, a campaign was launched by the IOM addressing migration issues through employment agencies in 17 municipality centres for young people that provide counselling.

80. GRETA considers that future action in the area of awareness raising should be designed in the light of the assessment of previous measures and be focused on the needs identified. Prevention within the Roma community should be strengthened through specific campaigns, using the materials readily understood in these communities. The authorities of Bosnia and Herzegovina should also increase their efforts to raise awareness of THB among the general public, with special attention to children and young people.

81. GRETA notes that according to Article 186, paragraph 6, of the state CC, persons who use the services of a victim of human trafficking face a prison sentence between six months and five years (see paragraph 143). The criminalisation of the use of services of a trafficked person, with the knowledge that the person is a victim of trafficking, is a positive development. That said, no specific steps have been taken to discourage demand for the services of victims of THB as a form of prevention.

82. GRETA considers that the authorities of Bosnia and Herzegovina should take further measures to discourage demand for services of victims of trafficking, including through raising awareness among the general public. In this context, GRETA considers that the state-level offence of the use of services of a victim of human trafficking should be incorporated into the criminal codes of the entities and the Brčko District.

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

83. The presence of an important number of members of the Roma community who have not been registered at birth has been identified as a serious risk factor for trafficking in human beings in Bosnia and Herzegovina. According to estimates of UNHCR based on a 2010 survey by the Ministry of Human Rights of Bosnia and Herzegovina, there were some 4 500 unregistered persons at risk of statelessness, the great majority of whom belonged to the Roma population. In its report on Bosnia and Herzegovina, dated 22 June 2011, the UN Committee on the Elimination of Discrimination against Women (CEDAW) stated that due to the difficult financial situation and frequent migration, many Roma children remained unregistered in the birth registers.¹² Further, GRETA refers to the Concluding observations on the reports of Bosnia and Herzegovina, adopted by the UN Committee on the Rights of the Child at its 61st session, which highlight concerns regarding the absence of a free and universal birth registration system, complicating birth registration for children born outside of hospitals, children living in remote areas, refugees and children belonging to minority groups.¹³

84. All GRETA's interlocutors encountered during the evaluation visit agreed that the lack of registration represents a continuing challenge. It is an obstacle, among other things, to obtaining proper social and medical assistance as well as schooling. This places Roma people at a particular risk, making their trafficking easier to organise and keep undercover.

85. According to the authorities, 1 187 children who had not been registered at birth were included in the state registers during 2009-2012. That said, the procedure for registration appears to be quite cumbersome and requires a lawyer's assistance. Efforts have been made to remedy this situation and, since 2008, UNHCR, with the support of lawyers from the NGO Vaša Prava, has provided free legal aid to Roma wishing to obtain registration. GRETA was informed by representatives of civil society and public bodies that the introduction of fines for non-registration of children, which aimed at encouraging registration at birth, did not prove in itself to be an efficient measure.

86. GRETA stresses that absence of registration of children is often one of the aspects making this group particularly vulnerable to human trafficking and urges the authorities of Bosnia and Herzegovina to strengthen their efforts to ensure the registration at birth of all children.

87. Drop-in centres for children in need have been set up in several towns throughout the country (Tuzla, Mostar, Zenica, Banja Luka, Sarajevo and Brčko). They provide daytime services, such as warm meals, a change of clothes or the possibility to wash their clothes, and assistance to sort out their social rights, such as access to health services. This is funded in part by the municipalities and in part by NGOs, in particular Save the Children. Each centre has signed a co-operation protocol with the local Ministries of Health, Education, and Internal Affairs.

¹² The CEDAW Report is available at: <http://www2.ohchr.org/english/bodies/cedaw/docs/CEDAW.C.BIH.4-5.pdf>

¹³ Concluding observations on the consolidated second to fourth periodic reports of Bosnia and Herzegovina, adopted by the Committee on the Rights of the Child at its 61st session (17 September - 5 October 2012), CRC/C/BIH/CO/2-4.: <http://www2.ohchr.org/english/bodies/crc/crcs61.htm>

88. Drop-in centres routinely co-operate with social welfare centres. In 2011, more than 6 000 children were provided services in drop-in centres and, according to some reports, many of them could have been victims of human trafficking. The GRETA delegation was informed that the drop-in centres are in a precarious financial situation and several of them are at risk of having to discontinue their activities due to insufficient funding. **In view of the number of children living in great poverty and at risk of human trafficking, GRETA urges the competent authorities to ensure that drop-in centres for children be provided with sufficient resources to stay open and provide adequate assistance.**

89. In addition, several interlocutors met by the GRETA delegation stressed the need to do more to ensure that Roma children do not stay outside the schooling system, which increases their risk of falling victims to human trafficking. GRETA refers to the report of the European Commission against Racism and Intolerance (ECRI) on Bosnia and Herzegovina, published in 2011, which refers to the Roma as the largest national minority, and also the most disadvantaged group. According to this report, the Roma are “seriously disadvantaged in all fields of life, including education, employment, housing, health and access to other public services”.¹⁴ Further, according to the CEDAW Report referred to in paragraph 83 above, there have been instances where Roma families, through arranging “extra-marital teenage relationships”, recruited minors into sexual exploitation in foreign countries.¹⁵

90. GRETA notes that the Council of Ministers of Bosnia and Herzegovina has adopted a revised Action Plan on educational needs of Roma for 2011-2012, the implementation of which has resulted in an increase of school attendance of Roma children by 6.41% in the school year 2011/2012. Estimates of the Ministry for Human Rights and Refugees suggest that 70 to 76 % of Roma children attend school regularly (3 024 children in 2011/2012).

91. **Given that forced marriages of children leading to exploitation have been on the increase in the country (see paragraph 11), and considering that Roma children are a particularly vulnerable group, GRETA urges the competent authorities to take all necessary measures to ensure that they have effective access to education as a measures for preventing human trafficking.**

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

92. The Border Police monitors the country’s borders with a view to identifying illegal migration and human trafficking, and exchanges information with other law enforcement agencies of Bosnia and Herzegovina. According to information provided by the authorities, Border Police officers undergo training on irregular migration and human trafficking. However, it is felt that more training of field staff is required, as training has so far targeted primarily management officers and investigators. In 2011 the Border Police reported only one THB case.

93. Information on the legal entry and stay on the territory of Bosnia and Herzegovina is available on the website of the State Ministry of Security’s Service for Foreigners Affairs in Bosnian, Croatian, Serbian and English.

94. The Service for Foreigners Affairs has the task of co-ordinating action against illegal migration and human trafficking with the Ministry of Foreign Affairs, the Border Police, SIPA, the Intelligence Security Agency, the Ministries of Internal Affairs of the entities and the Brčko District, by holding periodical meetings and exchanging information on an occasional basis.

¹⁴ The ECRI Report is available at: http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Bosnia_Herzegovina/BIH-CBC-IV-2011-002-ENG.pdf

¹⁵ The CEDAW Report is available at: <http://www2.ohchr.org/english/bodies/cedaw/docs/CEDAW.C.BIH.4-5.pdf>

95. With regards to the issuing of visas, and upon request of the consular services, the Service for Foreigners Affairs makes use of a special register of foreigners (the so-called "ROS") and undertakes a detailed assessment for the purpose of preventing irregular migration and human trafficking. The authorities have indicated that this has helped preventing cases of irregular migration and human trafficking. When screening visa requests, the Foreigners Affairs Service may conduct interviews with the applicants, paying particular attention to potential cases of irregular migration and trafficking. The register "ROS", which is accessible to law enforcement agencies, contains information concerning expelled foreigners, foreigners convicted for crimes or misdemeanours, persons whose visas were revoked, *personae non-grata*, persons who were banned from entering Bosnia and Herzegovina and those who represent threat for national security. According to the authorities, the staff responsible for examining visa applications within the Foreigners Affairs Service and Consular Service of the Ministry of Foreign Affairs receive training on THB as part of their regular training.

96. GRETA notes that border measures taken so far concentrate on the detection of irregular migrants and identification of convicted persons, or others whose entry in Bosnia and Herzegovina is considered not desirable. Such an approach is unlikely to be beneficial for the identification of victims of trafficking by frontline members of the Border Police. **GRETA therefore considers that the authorities of Bosnia and Herzegovina should make further efforts to:**

- **detect and prevent THB through border control measures;**
- **ensure that training on THB and the identification of victims is provided for frontline Border Police staff, immigration officers as well as diplomatic and consular staff, on a regular basis. Such training should underscore the difference between human trafficking and the smuggling of migrants;**
- **introduce a checklist to identify THB-related risks during the visa application system.**

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

97. According to the authorities, Bosnia and Herzegovina is issuing biometric identification and travel documents, in line with the International Civil Aviation Organization and EU standards. Identity and travel documents are secured so as to prevent unlawful creation and forging. GRETA stresses that particular attention should be paid at all times to ensuring the security of travel and identity documents, such as introducing sophisticated preventive features that make counterfeiting, falsification, forgery and fraud of such documents more difficult.

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

a. Identification of victims of THB

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

99. The identification of victims of trafficking who are nationals of Bosnia and Herzegovina is regulated by the Rules on the protection of victims and witnesses of THB who are nationals of Bosnia and Herzegovina (see paragraph 16). Pursuant to Article 4 of these Rules, any institution, NGO, physical or legal person who suspects that a person might be a victim of trafficking should immediately inform the State Information and Protection Agency (SIPA) and the State Prosecutor's Office. The information can also be submitted to the Prosecutor's Offices or police departments of the entities or the Brčko District. Further, Article 4 of the Rules indicates that victims of THB can self-report themselves.

100. Pursuant to Article 7 of the above-mentioned Rules, the procedure for the identification of victims who are nationals of Bosnia and Herzegovina is based on information gathered by the competent authorities (police and prosecution) and a "voluntary interview" with the possible victim of trafficking. In the case of children, the interview should take place in the presence of a parent, legal guardian or representative of a social welfare centre protecting the interests of the child. That said, it is not clear from the Rules who is responsible for conducting the interviews and whether there are any guidelines as regards the procedure to be followed. The GRETA delegation was informed by representatives of NGOs that possible victims of trafficking may be interviewed repeatedly by different bodies, which may be stressful for victims.

101. Formal identification of a victim of THB in the sense of the criminal definition is performed by the State Prosecutor's Office, SIPA or courts, when there are sufficient elements to initiate a criminal case for THB. Nonetheless, according to the authorities, possible victims identified by the police or other actors are entitled to receive assistance even if no criminal proceedings are initiated.

102. The identification of foreign nationals victims of THB is regulated by the Rulebook on protection of alien victims of trafficking in persons (see paragraph 16). The main authority performing the identification of such victims is the State Ministry of Security. Article 8(2) of the Rulebook lays down indicators for the identification (e.g. place and conditions where the person was discovered, psycho-physical condition, manner of and purpose for entering Bosnia and Herzegovina, possession of travel or identity documents, etc.). A responsible officer of the State Ministry of Security conducts an interview with the possible victim to verify the presence of indicators. According to the authorities, these officers have received special training on interviewing victims of THB. Should the suspicion that the person concerned may be a victim of THB prevail, he/she will be provided with accommodation in a shelter and entitled to assistance measures.

103. GRETA is concerned by reports from a number of sources that, in practice, the authorities of Bosnia and Herzegovina aim at the rapid return of foreign victims of trafficking to their countries of origin. Even in cases where foreign nationals have been identified as victims of trafficking by the law enforcement authorities, victims are reportedly repatriated as soon as they provide a testimony or other statement for the criminal case. The involvement of social workers or NGOs representatives in the identification of foreign victims of THB is reportedly very rare.

104. GRETA is concerned that the current system for the identification of victims of trafficking in Bosnia and Herzegovina is not sufficiently effective as it risks leaving out those who do not want to co-operate with the authorities and take part in criminal proceedings against the alleged traffickers. Identification depends to a large extent on the correct qualification of the case by the law enforcement agencies at the level where the offence was detected (cantonal, entity or state level). Failure to qualify a THB case as such and prosecuting it as another offence results in failure to identify victims of trafficking. In addition, the conflicting competences of the state and entity-level bodies create obstacles to the identification of victims of human trafficking and hinder their rapid referral for assistance. Further, NGOs are given very little role, if any, in the identification of victims of trafficking, despite having extensive practical experience and knowledge from working with victims of THB.

105. GRETA also notes that the Concluding observations on Bosnia and Herzegovina recently adopted by the Committee on the Rights of the Child (see paragraph 85) highlighted major drawbacks as regards the protection of children from trafficking for the purpose of forced begging, including their identification, assistance and reintegration.¹⁶

106. **GRETA urges the authorities of Bosnia and Herzegovina to:**

- **disconnect the formal identification of victims of human trafficking from the initiation of criminal proceedings;**
- **establish a multi-agency involvement in victim identification by introducing a national referral mechanism which defines the roles and procedures of all frontline staff who may come into contact with victims of trafficking;**
- **provide specialised training on the identification of victims of THB to all frontline staff who may come into contact with possible victims (including law enforcement officials, staff of social welfare centres, staff of child drop-in centres, labour inspectors, medical staff and NGOs);**
- **ensure that law enforcement officials, social workers, labour inspectors and other relevant actors adopt a more proactive approach and increase their outreach work to identify possible victims of trafficking, regardless of the possibility of initiating criminal cases;**
- **avoid unnecessary repetition of interviews with victims of trafficking;**
- **improve the identification of child victims of trafficking, subjected to forced begging and other forms of exploitation targeting children.**

b. Assistance to victims

107. 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 THB (Article 12(7)). The Convention also establishes that the assistance to victims of THB must include appropriate and secure accommodation.

¹⁶

Ibid., CRC/C/BIH/CO/2-4.

108. The provision of assistance to victims of human trafficking is regulated by the above-mentioned Rules on the protection of victims and witnesses of THB who are nationals of Bosnia and Herzegovina and Rulebook on protection of alien victims of trafficking in persons. According to both regulations, victims are entitled to safe accommodation, medical assistance, access to information about their rights, and legal assistance during criminal proceedings. Adult victims who are nationals of Bosnia and Herzegovina may be accommodated in a shelter and children are accommodated in child protection institutions. As regards foreign victims of human trafficking, as a general rule, they are accommodated in shelters that guarantee their safety. GRETA was informed that the new Law on Aliens, adopted in November 2012, provides foreign victims of THB with a right of access to the labour market in Bosnia and Herzegovina. According to the authorities, a more detailed by-law was being prepared on this subject at the time of adoption of this report.

109. Pursuant to the Rules and the Rulebook referred to above, victims of human trafficking are entitled to assistance measures even if a criminal case has not been initiated. The State Ministry of Security and the State Ministry of Human Rights and Refugees are the two main bodies responsible for ensuring assistance to victims of trafficking. In practice, the provision of assistance has been delegated to four NGOs which have concluded memoranda of understanding with the authorities. To ensure adequate standards of assistance and enhance the efficiency of using public resources, a new tender was organised in 2010, as a result of which only two NGOs were selected to run shelters for victims of THB, while two other NGOs were selected to provide out-of-shelter assistance. The State Ministry of Human Rights and Refugees has a dedicated budget line to cover expenses related to the assistance of victims of trafficking, amounting to some 80 000 Euros in 2011.

110. During the evaluation visit to Bosnia and Herzegovina, the GRETA delegation visited two shelters for victims of THB, one run by the NGO Emmaus and the other one by the NGO Medica Zenica. At the time of the visit, the Emmaus shelter was accommodating 11 victims of trafficking (including seven children). The shelter's overall capacity was 80 places and it offered good living conditions. Staff working at the shelter included seven caretakers and six security personnel. In addition, victims placed in the shelter had access to a nearby hospital certified by the Ministry of Health to provide assistance to victims of THB.

111. Five women victims of human trafficking were accommodated in the shelter run by Medica Zenica at the time of visit, which was said to be the average number over the last few years. The overall capacity of the shelter was 19; both women and their children could be accommodated in it. The shelter had a day centre available to victims of THB and providing psychological support. Vocational training was also offered to the women accommodated in the shelter (e.g. hairdressing, sewing). According to an agreement with the Cantonal Hospital of Zenica, women and children in the shelter were provided with free medical care.

112. Outside these two shelters, assistance to victims of trafficking is provided by social welfare centres throughout the country. According to information received by GRETA, many of these centres are underfunded and understaffed, which limits their capacity to assist victims of THB. Further, GRETA was informed by representatives of NGOs and public bodies that after leaving the shelters, victims of trafficking are not offered rehabilitation or re-socialisation programmes or access to the labour market. Due to the difficult budgetary situation, NGOs providing assistance to victims of trafficking rely mostly on funding from local authorities or foreign donors.

113. GRETA was informed that in 2010 the State Ministry of Security and the State Ministry of Human Rights and Refugees issued comprehensive guidelines for staff working at social welfare centres. These guidelines include minimum operational standards for the social welfare centres and performance principles for professionals working at these centres.

114. GRETA was also informed by the authorities that the current procedure for the identification of child victims of trafficking provides for the participation of representatives of social welfare centres in order to ensure that the best interests of the child are respected. However, as a prerequisite to providing assistance to children, these centres require that the children be registered, which is their parents' responsibility. However, particularly in cases where parents have participated in the trafficking of their own children, such registration has often not been carried out. Proceedings have therefore to be started to register the child, which are followed by proceedings to remove parental responsibility where needed, the whole process being lengthy. In GRETA's view, it is therefore crucial to provide immediate assistance to any child victim of trafficking, regardless of his/her registration status and without the need to obtain the parents' approval, when the best interests of the child so require.

115. **GRETA urges the responsible authorities in Bosnia and Herzegovina to take further measures to provide victims and possible victims of THB with adequate assistance and protection, and in particular to:**

- **ensure that all assistance measures provided for in law are guaranteed in practice; when assistance is delegated to NGOs as service providers, the state has an obligation to provide adequate financing and ensure the quality of the services delivered by the NGOs;**
- **ensure that social welfare centres and other public bodies involved in the provision of assistance to victims have the necessary human and financial resources to ensure their unhindered and effective functioning;**
- **facilitate the reintegration of victims of trafficking into society and avoid re-trafficking by providing vocational training and access to the labour market for victims who are lawfully resident in the country;**
- **improve the system for providing assistance to child victims of trafficking, both in terms of accommodation and as regards medium and long-term support programmes tailored to the needs of the children;**
- **provide specialised training to all persons responsible for the provision of assistance to victims of trafficking.**

c. Recovery and reflection period

116. 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 to 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.

117. Pursuant to Article 11(2) of the Rulebook on the protection of alien victims of trafficking in persons, a person presumed to be a victim of trafficking is granted the status of a protected person for a period of 30 days. This period serves the purpose of giving the person time to decide whether to file a request for residence permit in accordance with Article 6 of the Rulebook. However, the Rulebook does not make it clear that the 30-day period is for recovery and reflection purposes and it is also unclear whether during this period possible victims of trafficking are entitled to all the rights envisaged under the Convention.

118. **GRETA urges the authorities of Bosnia and Herzegovina to review the regulations in order to ensure that the recovery and reflection period provided for in Article 13 of the Convention is specifically defined in law.**

119. **Further, GRETA urges the authorities to ensure that trafficked persons are systematically informed of the possibility to use this recovery and reflection period and are effectively granted such a period.**

d. Residence permits

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

121. Pursuant to Article 54(1-a) of the Law on the movement and stay of aliens and asylum, an alien who has become a victim of organised crime and/or trafficking in human beings may be granted a temporary residence permit on humanitarian grounds for the purpose of providing protection and assistance for his/her rehabilitation and repatriation into the country of his/her habitual residence, or another country which will admit the alien. The duration of the residence permit issued on humanitarian grounds is six months and may be extended if the grounds on which it was issued persist.

122. In practice, a temporary residence permit is granted only to those victims of trafficking who are identified as such within the meaning of the criminal law definition. In other words, granting a temporary residence permit depends on the initiation of a criminal case for the offence of human trafficking. NGO representatives have referred to cases where after a possible victim of trafficking had provided testimony to a prosecutor, the prosecutor decided not to initiate a case for THB, following which the person concerned had to leave Bosnia and Herzegovina because no temporary residence permit could be issued.

123. According to the authorities, 10 foreign victims of trafficking received a temporary residence permit in the period 2008-2012. The residence permits entitled victims to safe accommodation, medical assistance, access to information about their rights and legal assistance during criminal and other proceedings.

124. **GRETA considers that the authorities of Bosnia and Herzegovina should ensure that victims of trafficking can fully benefit from the right to obtain a renewable residence permit in compliance with Article 14 of the Convention, including those who were identified but whose case did not lead to any criminal prosecution.**

e. Compensation and legal redress

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

126. In Bosnia and Herzegovina, pursuant to Article 112 of the state CC, victims of human trafficking may claim compensation from the offenders in criminal proceedings. However, GRETA understands that such claims are discouraged in practice, as their examination would imply establishing the damage sustained to evaluate compensation, which in turn would delay the delivery of the judgment on the human trafficking case. As a consequence, victims are reportedly advised to claim compensation through civil proceedings. However, in practice, very few victims do so because of the length of the civil proceedings and the fact that the burden of proving the damages sustained lies on the victim. According to representatives of the judiciary, the current legislation does not provide sufficient possibilities to decide on compensation of victims by the offenders in criminal proceedings, and therefore the legislation needs to be amended.

127. Further, there is no possibility in law to obtain compensation from the state and no compensation fund for victims of THB or victims of crime in general has been set up.

128. **GRETA urges the authorities of Bosnia and Herzegovina to:**

- **review the existing legislation on compensation with a view to ensuring that victims of human trafficking have an effective possibility to obtain compensation from the perpetrators, including by providing effective access to legal aid and information in this respect;**
- **set up a state compensation scheme, such as a compensation fund, accessible to victims of trafficking in order to resolve the current difficulties for them to receive compensation from the perpetrators.**

129. Reference is also made to the proposals under paragraph 145 concerning training of relevant professionals.

f. Repatriation and return

130. 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 human trafficking.

131. According to Article 56 of the Law on movement and stay of aliens and asylum, the State Ministry of Security is responsible for providing protection and assistance to victims of THB for the purpose of their rehabilitation and repatriation to the country of their habitual residence. The procedure for repatriation of foreign victims of trafficking is set out in Article 18 of the Rulebook on protection of alien victims of trafficking, which states that the State Ministry of Security, together with the State Ministry of Foreign Affairs, are in charge of carrying out the repatriation of foreign victims of THB. According to the authorities, risk assessment is always carried out when deciding upon the return of a victim of trafficking.

132. The GRETA delegation was informed that, in practice, foreign victims of trafficking are returned to their countries either through readmission agreements with the states concerned or with the assistance of the IOM. A Protocol on co-operation concerning the protection of trafficking victims and their return on a voluntary basis to their home countries or countries of residence was concluded between the IOM and the Ministry of Security of Bosnia and Herzegovina on 26 July 2005. According to the authorities, no victims of trafficking have so far been repatriated from Bosnia and Herzegovina against their will. As regards repatriation of child victims, it is organised in co-operation with Social Protection Services.

133. As regards the return to Bosnia and Herzegovina of nationals identified as victims of trafficking abroad, the country's consular offices have a duty to assist them in the process. The return is organised in co-operation between the Ministry of Security and the Ministry of Human Rights and Refugees, which are responsible for preparing the reception of the victim (if necessary, at a border crossing). Such victims, once returned, are entitled to assistance and protection measures envisaged for victims of THB in Bosnia and Herzegovina.

134. **GRETA considers that the authorities of Bosnia and Herzegovina should take further steps to ensure that the return of victims of trafficking is conducted with due regard for the rights, safety and dignity of the person and the status of legal proceedings; this includes protection from retaliation and re-trafficking.**

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

a. Substantive criminal law

135. 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).

136. As previously noted (see paragraph 42), only the state Criminal Code (CC) includes the offence of trafficking in human beings. The criminal codes of the two entities (Republika Srpska and the Federation of Bosnia and Herzegovina) and the Brčko District are to be complemented with the same offence, including aggravating circumstances, offences related to travel and identity documents, and attempt, aiding and abetting.

137. According to Article 186, paragraph 1, of the state CC, persons found guilty of the offence of human trafficking are sentenced to no less than three years' imprisonment. Paragraph 2 provides that when the victim is under 18 years of age, the minimum sentence is five years of imprisonment and the maximum 20 years of imprisonment.

138. Other aggravating circumstances concern the trafficking offence being committed by a public official in the exercise of his/her duties, both of which carry a minimum penalty of five years of imprisonment. Furthermore, persons who organise or direct at any level a group of people to commit the offence of human trafficking face a prison sentence of no less than 10 years (Article 186, paragraph 5).

139. Under Article 186, paragraph 7, of the state CC, if the perpetration of the criminal offence referred to in paragraphs 1 and 2 caused the trafficked victim serious health damage or grievous bodily harm or led to the victim's death, the perpetrator will be punished to a prison sentence of no less than five years or to a long-term sentence.

140. Paragraph 4 of Article 186 of the state CC stipulates that counterfeiting, procuring or issuing travel or identification documents for the purpose of human trafficking attracts a sentence between one and five years of imprisonment. The same provision criminalises the fact of using, holding, seizing, altering, damaging or destroying the travel or identity documents of another person to facilitate human trafficking, with the same prison sentences.

141. According to Article 26 of the state CC, any attempt to commit a criminal offence will be punished in accordance with the punishment prescribed for the criminal offence itself, but the punishment may be reduced.

142. As regards aiding and abetting, Article 31 of the state CC stipulates that whoever intentionally helps another person to perpetrate a criminal offence will be punished as if he or she had perpetrated the offence, but that the punishment may be reduced. By way of example, the following are considered as helping in the perpetration of a criminal offence: giving advice or instructions as to how to perpetrate a criminal offence, promising, prior to the perpetration of the criminal offence, to conceal the existence of the criminal offence, to hide the perpetrator, etc. Furthermore, pursuant to Article 29 of the state CC, if several persons who, by participating in the perpetration of a criminal offence or by taking some other act by which a decisive contribution has been made to its perpetration, have jointly perpetrated a criminal offence, they will each be punished as prescribed for the criminal offence. Article 30 also provides that incitement to committing a criminal offence is punishable as if the offence had been committed by the person who incited the perpetrator.

143. Pursuant to Article 186, paragraph 6, of the state CC, persons who use the services of a victim of human trafficking face a prison sentence between six months and five years. GRETA understands that there have been no convictions under this provision.

144. According to Chapter 4 of the state CC, legal persons can be held criminally liable for human trafficking and the penalties include fines (from 5 000 to 5 000 000 Bosnia and Herzegovina convertible marks, i.e. approximately from 2 560 to 2 560 459 euros), confiscation of property (for criminal offences punishable by a prison sentence of at least five years) and dissolution of the legal person (when its activities were entirely or partly used for the purpose of perpetrating criminal offences). So far, no criminal cases have been initiated against legal persons for their involvement in THB offences in Bosnia and Herzegovina.

145. As regards convictions in another state party, the authorities have referred to Article 48 of the state CC whereby courts should take into account previous convictions when deciding on the severity of the sentence. According to information provided by the authorities, courts in Bosnia and Herzegovina also take into account convictions handed down by foreign courts.

b. Non-punishment of victims of THB

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

147. The legislation of Bosnia and Herzegovina does not include a specific provision which covers Article 26 of the Convention. The authorities have referred to Article 25a of the state CC, according to which a criminal offence perpetrated under irresistible force is not held against the offender but against the person who forced the offender. A criminal offence which has been committed under irresistible force or threat may result in a more lenient punishment, but this provision has not yet been applied in practice.

148. **GRETA urges the authorities of Bosnia and Herzegovina to take legislative or other measures, such as issuing guidance to investigating and prosecuting authorities at state and entity level, allowing for the possibility of not imposing penalties on victims of THB for their involvement in unlawful activities to the extent that they were compelled to do so.**

c. Investigation, prosecution and procedural law

149. One of the purposes of the Convention is to ensure the effective investigation and prosecution of THB. In this context, Parties are required to co-operate with each other regarding investigations and criminal proceedings related to THB (Article 32). Further, the Convention establishes that the investigation or prosecution of THB offences must not depend 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).

150. In accordance with Article 17 of the state Code of Criminal Procedure (CCP), a prosecutor is obliged to initiate a criminal case if there is evidence that an offence has been committed. The anti-trafficking liaison officers of the police, who are appointed across the country, are required to refer trafficking cases to the State Prosecutor's Office so as to ensure that they are qualified under the state CC and investigated accordingly by the State Information and Protection Agency (SIPA). In addition, as part of the Strike Force, law enforcement authorities and prosecutors exchange information on current cases and examine cases where it is necessary to determine whether the investigation should take place at state or entity level.

151. The use of special investigative techniques is regulated by Chapter IX of the state CC. These techniques include surveillance and technical recording of telecommunications, access to computer systems and computerised data processing, surveillance and technical recording of premises, physical surveillance and technical recording of individuals and objects, and use of undercover investigators and informants. Such techniques may be used following authorisation by a judge, upon a duly justified motion of a prosecutor. Pursuant to Article 117 of the state CCP, special investigative techniques can be used in cases of human trafficking as the minimum punishment envisaged for this offence is three years of imprisonment. According to the authorities, the special investigative techniques used in Bosnia and Herzegovina for investigating THB offences include surveillance and technical recording of telecommunications, surveillance of premises, covert surveillance and recording of individuals, use of undercover agents, simulated purchase of goods and simulated bribery. Referring to Committee of Ministers' Recommendation Rec(2005)10 on special investigation techniques in relation to serious crimes including acts of terrorism, GRETA recalls the importance such techniques have for the efficiency of investigations.

152. GRETA is concerned that, in practice, a number of problems arise when investigating and prosecuting cases of human trafficking: first, a wrong qualification at local level prevents the case from being transmitted to state-level prosecution and means that it is not prosecuted as a THB offence; secondly, a wrong qualification at state level results in the case being sent back to entity-level prosecutors who then use other provisions of entity-level criminal codes for prosecution (e.g. pimping). Furthermore, trafficking cases involving children forced to beg are often sent back to entity prosecutors on the basis that the parents of these children were the ones forcing them to beg, which is considered as ill-treatment rather than trafficking. The authorities of Bosnia and Herzegovina are well aware of these shortcomings and are planning to harmonise, by the end of 2012, all criminal codes at entity level and to include an offence of human trafficking similar to the one contained in the state CC.

153. According to statistical information provided by the authorities of Bosnia and Herzegovina, the number of criminal cases initiated for human trafficking was 21 in 2008, 23 in 2009, 25 in 2010, five in 2011 and five in 2012. The courts handed down 14 convictions for human trafficking in 2008 (none involving deprivation of liberty), 20 convictions in 2009 (again none involving deprivation of liberty), 19 convictions in 2010 (some of which involved deprivation of liberty ranging from one to 10 years), five in 2011 and one in 2012. GRETA notes that plea bargain is applicable to THB offences in some cases, which partly explains the low number of convictions involving deprivation of liberty. GRETA is concerned that such a procedure could be applied to cases of trafficking in human beings, given the seriousness of human rights violations suffered by the victims.

154. Representatives of the judiciary and NGOs met during GRETA's evaluation visit to Bosnia and Herzegovina expressed concern that the sentences pronounced by courts for human trafficking offences were often not commensurate with the gravity of the offence. Further, GRETA was informed that there is a lack of effective mechanisms for the confiscation of assets and illegal proceeds of crime. In order for confiscation to take place, the law requires to prove that the assets originated from the offence in question. According to representatives of the judiciary and prosecutors met during the visit, traffickers often have no property registered in their names, which makes it impossible to track down and confiscate it.

155. During the evaluation visit, the GRETA delegation was informed of a case of alleged transnational trafficking for labour exploitation in Azerbaijan, involving a large number of men from Bosnia and Herzegovina, Serbia and "The former Yugoslav Republic of Macedonia". In 2009, the alleged victims responded to an employment offer as construction workers in Azerbaijan by the company "Serbia Design and Construction" registered in Azerbaijan. It would appear that immediately upon their arrival in Azerbaijan, their passports were taken away and they were put to work on various construction sites guarded by armed people. They were locked up after working hours, accommodated in very poor conditions and their salaries were not paid. Moreover, the workers were allegedly subjected to heavy monetary fines for "disciplinary misconduct" and abused physically and psychologically. The Serbian NGO Astra has issued a report on the case, according to which three workers died from heart attack, which was apparently not followed by any investigation. According to Astra, no investigations have been initiated in Azerbaijan and all complaints by NGOs against the police and the prosecution for failure to investigate have been dismissed.

156. During the visit to Bosnia and Herzegovina, the GRETA delegation raised the case in question at meetings with representatives of the State Prosecutor's Office and the National Co-ordinator for Combating Trafficking in Human Beings. It appeared to the delegation that none of the persons involved in this case had been identified as victims of trafficking in Bosnia and Herzegovina and consequently none of them had received any assistance upon their return to the country or had been able to claim compensation.

157. GRETA understands that the above-mentioned case reached the State Prosecutor's Office of Bosnia and Herzegovina following reports submitted by the State Investigation and Protection Agency, and that an investigation was initiated in September 2011. At present the case is under investigation in the State Prosecutor's Office, which is awaiting further information from the Azerbaijani authorities. GRETA notes that the investigation on this case is still ongoing and would like to be informed of its outcome in due course. GRETA further recalls that effective investigation is a prerequisite for the successful implementation of an obligation of the Parties arising under the substantive criminal law (Chapter IV) and investigation, prosecution and procedural law (Chapter V) provisions of the Convention.

158. **GRETA urges the authorities of Bosnia and Herzegovina to:**

- **identify gaps in the investigation procedure and the presentation of cases in court, inter alia, with a view to ensuring that crimes related to THB are investigated and prosecuted effectively, leading to proportionate and dissuasive sanctions;**
- **take measures to ensure that crimes related to THB are investigated and prosecuted promptly and effectively, in order to avoid undue delays in criminal proceedings;**
- **strengthen their efforts to proactively investigate THB offences, with a special emphasis on cases involving trafficking for the purpose of labour exploitation and trafficking of children.**

159. Further, GRETA considers that the knowledge and awareness of judges, prosecutors, investigators and lawyers about THB needs to be improved, including as regards specific elements of the offence, the rights of victims and access to compensation. Future training programmes should be designed with a view to improving the knowledge and skills of relevant professionals which enable them to effectively assist and protect victims of trafficking, and to ensure traffickers receive adequate convictions. During the training, particular attention should be paid to overcoming entrenched negative attitudes and prejudices vis-à-vis victims of trafficking.

d. Protection of victims and witnesses

160. By virtue of Article 28 the Convention, Parties must take measures to provide effective and appropriate protection from potential retaliation or intimidation in particular during and after the investigation and prosecution of perpetrators. This protection can be of various types (physical, relocation, identity change, etc.) and is to be provided to victims of THB, to those who report it or otherwise co-operate with the investigating or prosecuting authorities, to witnesses who give testimony and, when necessary, to members of the families of those listed above. Article 30 of the Convention includes a provision requesting 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.

161. According to the authorities, the protection of witnesses and victims in Bosnia and Herzegovina is regulated by the Law on protection of witnesses under threat and vulnerable witnesses and the Rules on the protection of victims and witnesses of THB who are nationals of Bosnia and Herzegovina. Specific protection measures adapted to the needs of victims and witnesses during criminal proceedings are ordered by the competent court and may include testimony by means of transferred image and sound not requiring the presence of a victim or witness concerned, removal of the accused during testimony, measures to provide anonymity of a witness, and a special procedure of witness protection hearing. The above-mentioned law also allows for the use of recorded testimony.

162. According to the above-mentioned law, children are considered as vulnerable witnesses, which entitles them to increased measures of protection. Children cannot be questioned more than twice during the entire investigation procedure and should not be exposed to any direct contact with the perpetrators. Further, children can only give testimony in the presence of a parent or a legal guardian and a child psychologist. Such testimonies are recorded to avoid interviewing children more than once. During the court proceedings a judge is entitled to hold a part of the session *in camera*, if this is in the interest of a child, upon request of a prosecutor or a lawyer of a victim/witness.

163. That said, during the evaluation visit, prosecutors and NGO representatives indicated that the above-mentioned law is not implemented satisfactorily and, as a result, victims and witnesses are often intimidated by the traffickers and refuse to testify. Only the state level court and two other courts have dedicated witness protection departments. Entity level capacities of protection of witnesses and victims is allegedly even weaker, as there is a lack of technical equipment which would allow for the implementation of protection measures. Further, GRETA was informed of a case where names of victims under special protection were leaked to the press.

164. **GRETA urges the authorities of Bosnia and Herzegovina to take legislative and practical measures to ensure the effective protection of victims of THB, especially children, during the investigation and to prevent their intimidation during and after court proceedings.**

5. Concluding remarks

165. GRETA welcomes the steps taken by the authorities of Bosnia and Herzegovina to combat THB and support victims of trafficking, including through the appointment of a National Anti-trafficking Co-ordinator and the setting up of the Strike Force on combating trafficking in human beings. The adoption of several state action plans for the prevention of THB and the independent evaluation of the implementation of the state action plan for 2008-2012 are also positive features of the country's anti-trafficking efforts.

166. However, a number of important challenges still remain to be tackled through legislative, policy or practical measures in order to meet the requirements of the human rights-based approach outlined in paragraphs 33-36. The offence of trafficking in human beings needs to be incorporated in the criminal codes of the entities and the Brčko District. Further, the right to a reflection and recovery period should be specifically defined in law.

167. The current approach to the identification and referral to assistance of victims of human trafficking raises concerns as to its potential for contravening the core human rights principles and values required by the Convention. In particular, the authorities of Bosnia and Herzegovina must ensure that the identification of victims of trafficking is disconnected from the initiation of criminal proceedings. A formalised national referral mechanism to identify and assist victims of trafficking should be set up, with clear procedures and roles for all frontline actors.

168. GRETA also draws attention to the need for adapting the existing preventive policies to include measures specifically targeted at vulnerable groups, such as the Roma community. Increased attention should be paid to preventing trafficking for labour exploitation and trafficking of children.

169. Notwithstanding the legal possibility for victims of trafficking to be issued with residence permits and to obtain compensation from the perpetrators, the authorities must ensure the effective access to these entitlements. Further, bearing in mind the difficulties to receive compensation from the perpetrators, the authorities should set up a State compensation scheme accessible to victims of human trafficking.

170. Strengthening the effectiveness of investigations and prosecutions of human trafficking-related offences with a view to securing proportionate and dissuasive sanctions is another area where further action is needed in order to fully apply the human rights-based and victim-centred approach promoted by the Convention. GRETA also emphasises the need to take measures to ensure the effective protection of victims and witnesses.

171. All professionals who may come into contact with victims of human trafficking, including law enforcement officials, prosecutors, judges, labour inspectors and social workers, need to be continuously informed and trained about the need to apply a human rights-based approach to action against human trafficking on the basis of the Convention and the case-law of the European Court of Human Rights.

172. GRETA invites the authorities of Bosnia and Herzegovina to keep it regularly informed of developments as regards the implementation of the Convention and looks forward to continuing its co-operation with the Government of Bosnia and Herzegovina for achieving the purposes of the Convention.

Appendix I: List of GRETA's proposals

Definition of trafficking in human beings

1. GRETA urges the competent authorities to ensure that the offence of human trafficking is incorporated in a consistent manner in all criminal codes applicable on the territory of Bosnia and Herzegovina.

Comprehensive approach and co-ordination

2. GRETA urges the authorities of Bosnia and Herzegovina to ensure, in close co-operation with the authorities of the entities and the Brčko District, that anti-trafficking legislation and policies are coherent and are effectively implemented and assessed. Particular attention should be paid to preventing and combating trafficking within Bosnia and Herzegovina. The responsible authorities should also pursue regular exchanges of information concerning all aspects of THB and aim for a greater co-ordination of their activities.

3. GRETA considers that the authorities should ensure that meetings of co-ordinating bodies (especially the State Group) take place regularly, and should increase the effectiveness of participation of all public bodies involved in the implementation of anti-trafficking measures at the state and entity levels. GRETA encourages the National Co-ordinator to intensify efforts for greater co-ordination of activities with the Regional Monitoring Teams.

4. Further, GRETA considers that the authorities of Bosnia and Herzegovina, the two entities and the Brčko District should effectively involve NGOs working in the anti-trafficking field in the discussion and elaboration of anti-trafficking policies and promote their participation in the work of the anti-trafficking public bodies.

Training of relevant professionals

5. GRETA considers that the authorities at the state, entity and cantonal level in Bosnia and Herzegovina should increase their efforts, including through funding, to provide regular training on THB-related issues to all relevant professionals. Training programmes should be designed in a manner providing practical knowledge and skills for the identification of victims of trafficking, the assistance and protection of victims, and the prosecution of traffickers (see also paragraphs 92, 106, 115 and 159).

Data collection and research

6. GRETA considers that the authorities of Bosnia and Herzegovina should conduct and support research on trafficking-related issues as an important source of information for future policy measures. Areas where research is particularly needed to shed more light on the extent and nature of the problem of trafficking include child trafficking, internal trafficking, and trafficking in groups particularly vulnerable to trafficking.

7. GRETA also considers that when collecting statistical information from all main actors, the authorities of Bosnia and Herzegovina should take all the necessary measures to respect the right of data subjects to personal data protection, including when NGOs working with victims of trafficking are asked to provide information for the official database.

International co-operation

8. GRETA considers that the authorities of Bosnia and Herzegovina should enhance international co-operation in the investigation and prosecution of human trafficking cases, as well as the assistance of victims of THB.

Measures to raise awareness and discourage demand

9. GRETA considers that the authorities, be it at state or other levels, should launch a comprehensive campaign for the general public as well as targeted initiatives for groups vulnerable to THB, in order to raise their awareness of the risks of human trafficking.

10. GRETA considers that future action in the area of awareness raising should be designed in the light of the assessment of previous measures and be focused on the needs identified. Prevention within the Roma community should be strengthened through specific campaigns, using the materials readily understood in these communities. The authorities of Bosnia and Herzegovina should also increase their efforts to raise awareness of THB among the general public, with special attention to children and young people.

11. GRETA considers that the authorities of Bosnia and Herzegovina should take further measures to discourage demand for services of victims of trafficking, including through raising awareness among the general public. In this context, GRETA considers that the state-level offence of the use of services of a victim of human trafficking should be incorporated into the criminal codes of the entities and the Brčko District.

Social, economic and other measures for groups vulnerable to THB

12. GRETA stresses that absence of registration of children is often one of the aspects making this group particularly vulnerable to human trafficking and urges the authorities of Bosnia and Herzegovina to strengthen their efforts to ensure the registration at birth of all children.

13. In view of the number of children living in great poverty and at risk of human trafficking, GRETA urges the competent authorities to ensure that drop-in centres for children be provided with sufficient resources to stay open and provide adequate assistance.

14. Given that forced marriages of children leading to exploitation have been on the increase in the country (see paragraph 11), and considering that Roma children are a particularly vulnerable group, GRETA urges the competent authorities to take all necessary measures to ensure that they have effective access to education as a measures for preventing human trafficking.

Border measures and measures to enable legal immigration

15. GRETA considers that the authorities of Bosnia and Herzegovina should make further efforts to:

- detect and prevent THB through border control measures;
- ensure that training on THB and the identification of victims is provided for frontline Border Police staff, immigration officers as well as diplomatic and consular staff, on a regular basis. Such training should underscore the difference between human trafficking and the smuggling of migrants;
- introduce a checklist to identify THB-related risks during the visa application system.

Identification of victims of trafficking in human beings

16. GRETA urges the authorities of Bosnia and Herzegovina to:

- disconnect the formal identification of victims of human trafficking from the initiation of criminal proceedings;
- establish a multi-agency involvement in victim identification by introducing a national referral mechanism which defines the roles and procedures of all frontline staff who may come into contact with victims of trafficking;

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- provide specialised training on the identification of victims of THB to all frontline staff who may come into contact with possible victims (including law enforcement officials, staff of social welfare centres, staff of child drop-in centres, labour inspectors, medical staff and NGOs);
 - ensure that law enforcement officials, social workers, labour inspectors and other relevant actors adopt a more proactive approach and increase their outreach work to identify possible victims of trafficking, regardless of the possibility of initiating criminal cases;
 - avoid unnecessary repetition of interviews with victims of trafficking;
 - improve the identification of child victims of trafficking, subjected to forced begging and other forms of exploitation targeting children.

Assistance measures

17. GRETA urges the responsible authorities in Bosnia and Herzegovina to take further measures to provide victims and possible victims of THB with adequate assistance and protection, and in particular to:

- ensure that all assistance measures provided for in law are guaranteed in practice; when assistance is delegated to NGOs as service providers, the state has an obligation to provide adequate financing and ensure the quality of the services delivered by the NGOs;
- ensure that social welfare centres and other public bodies involved in the provision of assistance to victims have the necessary human and financial resources to ensure their unhindered and effective functioning;
- facilitate the reintegration of victims of trafficking into society and avoid re-trafficking by providing vocational training and access to the labour market for victims who are lawfully resident in the country;
- improve the system for providing assistance to child victims of trafficking, both in terms of accommodation and as regards medium and long-term support programmes tailored to the needs of the children;
- provide specialised training to all persons responsible for the provision of assistance to victims of trafficking.

Recovery and reflection period

18. GRETA urges the authorities of Bosnia and Herzegovina to review the regulations in order to ensure that the recovery and reflection period provided for in Article 13 of the Convention is specifically defined in law.

19. Further, GRETA urges the authorities to ensure that trafficked persons are systematically informed of the possibility to use this recovery and reflection period and are effectively granted such a period.

Residence permit

20. GRETA considers that the authorities of Bosnia and Herzegovina should ensure that victims of trafficking can fully benefit from the right to obtain a renewable residence permit in compliance with Article 14 of the Convention, including those who were identified but whose case did lead to any criminal prosecution.

Compensation and legal redress

21. GRETA urges the authorities of Bosnia and Herzegovina to:

- review the existing legislation on compensation with a view to ensuring that victims of human trafficking have an effective possibility to obtain compensation from the perpetrators, including by providing effective access to legal aid and information in this respect;
- set up a state compensation scheme, such as a compensation fund, accessible to victims of trafficking in order to resolve the current difficulties for them to receive compensation from the perpetrators.

Repatriation and return of victims

22. GRETA considers that the authorities of Bosnia and Herzegovina should take further steps to ensure that the return of victims of trafficking is conducted with due regard for the rights, safety and dignity of the person and the status of legal proceedings; this includes protection from retaliation and re-trafficking.

Non-punishment of victims of human trafficking

23. GRETA urges the authorities of Bosnia and Herzegovina to take legislative or other measures, such as issuing guidance to investigating and prosecuting authorities at state and entity level, allowing for the possibility of not imposing penalties on victims of THB for their involvement in unlawful activities to the extent that they were compelled to do so.

Investigation, prosecution and procedural law

24. GRETA urges the authorities of Bosnia and Herzegovina to:

- identify gaps in the investigation procedure and the presentation of cases in court, inter alia, with a view to ensuring that crimes related to THB are investigated and prosecuted effectively, leading to proportionate and dissuasive sanctions;
- take measures to ensure that crimes related to THB are investigated and prosecuted promptly and effectively, in order to avoid undue delays in criminal proceedings;
- strengthen their efforts to proactively investigate THB offences, with a special emphasis on cases involving trafficking for the purpose of labour exploitation and trafficking of children

25. Further, GRETA considers that the knowledge and awareness of judges, prosecutors, investigators and lawyers about THB needs to be improved, including as regards specific elements of the offence, the rights of victims and access to compensation. Future training programmes should be designed with a view to improving the knowledge and skills of relevant professionals which enable them to effectively assist and protect victims of trafficking, and to ensure traffickers receive adequate convictions. During the training, particular attention should be paid to overcoming entrenched negative attitudes and prejudices vis-à-vis victims of trafficking.

Protection of victims and witnesses

26. GRETA urges the authorities of Bosnia and Herzegovina to take legislative and practical measures to ensure the effective protection of victims of THB, especially children, during the investigation and to prevent their intimidation during and after court proceedings.

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

Public bodies

Bosnia and Herzegovina

- National Coordinator for combating trafficking in human beings
- Strike Force for fighting against trafficking in human beings
- Ministry of Security
- Ministry of Justice
- Ministry for Human Rights and Refugees
- Ministry of Foreign Affairs
- State Prosecutor's Office
- Border Police
- State Investigation and Protection Agency (SIPA)
- Service for foreigners
- Judiciary
- Office of the Ombudsman of Bosnia and Herzegovina
- Joint Commission for Human Rights, Rights of Children, Youth, Immigration, Refugees, Asylum and Ethics of the Parliamentary Assembly of Bosnia and Herzegovina

Republika Srpska

- Ministry of the Interior
- Ministry of Justice
- Ministry of Health and Social Welfare
- Ministry of Refugees and Displaced Persons
- Prosecutor's Office
- Judiciary
- Local centre for social welfare
- Regional Monitoring Team - Banja Luka

Federation of Bosnia and Herzegovina

- Ministry of the Interior
- Ministry of Justice
- Ministry of Labour and Social Policy
- Ministry of Displaced Persons and Refugees
- Prosecutor's Office
- Judiciary
- Local centre for social welfare
- Regional Monitoring Team - Sarajevo

Brčko District

- Police of the Brčko District
- Judicial Commission
- Prosecutor's Office
- Department for Education
- Sub-department for Social Protection
- Local centre for social welfare

Intergovernmental organisations

- International Organisation for Migration (IOM) Office in Bosnia and Herzegovina
- International Centre for Migration Policy Development (ICMPD) Office in Bosnia and Herzegovina
- Organization for Security and Co-operation in Europe (OSCE), Mission to Bosnia and Herzegovina
- United Nations Children's Fund (UNICEF) Office in Bosnia and Herzegovina

Non-governmental organisations

- Save the Children
- Foundation of Local Democracy
- Association "B&H WOMAN"
- Vasa Prava

Government's comments

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

The Convention requires that "the report and conclusions of GRETA shall be made public as from their adoption, together with eventual comments by the Party concerned." GRETA transmitted its final report to the authorities of Bosnia and Herzegovina on 28 March 2013 and invited them to submit any final comments. By letter of 10 May 2013 (reproduced hereafter), the authorities of Bosnia and Herzegovina indicated that they do not have any comments to submit concerning the final GRETA report.



No. 15-14-2-6089-9/12
Sarajevo 10 May 2013

**Petya Nestorova
Executive Secretary of the Council of European convention
on Action against Trafficking in Human Beings
Secretariat General
Directorate General Human Rights and Rule of Law
Justice and Human Dignity Directorate
Council of Europe
F/67075 Strasbourg Cedex**

Subject: Final GRETA Report

Dear Ms Nestorova,

Bosnia and Herzegovina has received Final Report of the Group of Experts on Action against Trafficking in Human Beings (GRETA).

I would like inform You that Bosnia and Herzegovina does not have any comment to GRETA Report.

Sincerely Yours,

A handwritten signature in blue ink, appearing to read 'Samir Rizvo'.

Samir Rizvo
Contact Person

National Co-ordinator for Fight against Trafficking in Human Beings