



GRETA

Group of Experts on Action
against Trafficking in Human Beings

GRETA (2014)12

Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by "the former Yugoslav Republic of Macedonia"

First evaluation round

Adopted on 21 March 2014

Published on 17 June 2014

Secretariat of the Council of Europe Convention
on Action against Trafficking in Human Beings
(GRETA and Committee of the Parties)
DG-II Directorate General of Democracy
Council of Europe
F- 67075 Strasbourg Cedex
France
+ 33 (0)3 90 21 52 54

trafficking@coe.int

<http://www.coe.int/trafficking>

Table of contents

| | |
|---|-----------|
| Preamble | 5 |
| Executive summary | 7 |
| I. Introduction | 9 |
| II. National framework in the field of action against trafficking in human beings in “the former Yugoslav Republic of Macedonia” | 11 |
| 1. Overview of the current situation in the area of trafficking in human beings in “the former Yugoslav Republic of Macedonia” | 11 |
| 2. Overview of the legal and policy framework in the field of action against trafficking in human beings | 12 |
| a. Legal framework | 12 |
| b. National Strategies and Action Plans | 13 |
| 3. Overview of the institutional framework for action against trafficking in human beings..... | 14 |
| a. National Commission for the Fight against Trafficking in Human Beings and Illegal Migration..... | 14 |
| b. National Co-ordinator for Combating Trafficking in Human Beings and Illegal Migration | 15 |
| c. National Rapporteur on Trafficking in Human Beings..... | 15 |
| d. Ministry of the Interior..... | 16 |
| e. Ministry of Labour and Social Policy..... | 16 |
| f. Basic Court Skopje 1 and Basic Public Prosecutor’s Office for organised crime and corruption | 16 |
| g. NGOs, other civil society actors and international donors | 16 |
| III. Implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by “the former Yugoslav Republic of Macedonia” | 18 |
| 1. Integration of the core concepts and definitions contained in the Convention in the internal law | 18 |
| a. Human rights-based approach to action against trafficking in human beings | 18 |
| b. Definitions of “trafficking in human beings” and “victim of THB” in Macedonian law | 19 |
| i. <i>Definition of “trafficking in human beings”</i> | 19 |
| ii. <i>Definition of “victim of THB”</i> | 21 |
| c. Comprehensive approach to action against THB, co-ordination of all actors and actions, and international co-operation | 21 |
| i. <i>Comprehensive approach and co-ordination</i> | 21 |
| ii. <i>Training of relevant professionals</i> | 24 |
| iii. <i>Data collection and research</i> | 26 |
| iv. <i>International co-operation</i> | 27 |
| 2. Implementation by “the former Yugoslav Republic of Macedonia” of measures aimed at preventing trafficking in human beings | 29 |
| a. Measures to raise awareness | 29 |
| b. Measures to discourage demand | 31 |
| c. Social, economic and other initiatives for groups vulnerable to THB | 31 |
| d. Border measures to prevent THB and measures to enable legal migration | 33 |
| e. Measures to ensure the quality, security and integrity of travel and identity documents | 34 |
| 3. Implementation by “the former Yugoslav Republic of Macedonia” of measures to protect and promote the rights of victims of trafficking in human beings | 34 |
| a. Identification of victims of trafficking in human beings | 34 |
| b. Assistance to victims..... | 37 |
| c. Recovery and reflection period..... | 39 |
| d. Residence permits | 40 |

| | |
|--|-----------|
| e. Compensation and legal redress..... | 41 |
| f. Repatriation and return of victims..... | 42 |
| 4. Implementation by “the former Yugoslav Republic of Macedonia” of measures concerning substantive criminal law, investigation, prosecution and procedural law | 43 |
| a. Substantive criminal law..... | 43 |
| b. Non-punishment of victims of trafficking in human beings | 45 |
| c. Investigation, prosecution and procedural law..... | 46 |
| d. Protection of victims and witnesses..... | 47 |
| 5. Concluding remarks | 48 |
| Appendix I: List of GRETA’s proposals | 49 |
| Appendix II: List of public bodies and intergovernmental and civil society organisations with which GRETA held consultations..... | 53 |
| | |
| Government’s comments..... | 54 |

Preamble

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

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

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

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

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

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

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

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

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

GRETA is composed of 15 independent and impartial experts chosen for their recognised competence in the fields of human rights, assistance and protection of victims, and action against trafficking in human beings, or because of their professional experience in the areas covered by the Convention. The task of GRETA is to evaluate the implementation of the Convention by the Parties, following a procedure divided into rounds. At the beginning of each round, GRETA defines autonomously the provisions to be monitored and determines the most appropriate means to carry out the evaluation, being guided by the Rules of procedure for evaluating implementation of the Convention adopted at GRETA's 2nd meeting (16-19 June 2009). GRETA has decided that the duration of the first evaluation round shall be four years starting at the beginning of 2010 and finishing at the end of 2013.

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

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

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

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

Executive summary

The Macedonian authorities have taken a number of important steps to prevent and combat trafficking in human beings. The national legal framework in the field of action against human trafficking has evolved over the years and provides for a number of rights of victims of trafficking. In 2001, the National Commission for the Fight against Trafficking in Human Beings and Illegal Migration was set up to co-ordinate the activities of competent public bodies. Further, in 2009, a senior official of the Ministry of the Interior was appointed as National Rapporteur on Trafficking in Human Beings. A specialised anti-trafficking unit has been set up within the Ministry of the Interior and a National Referral Mechanism for victims of trafficking is operated by the Ministry of Labour and Social Policy.

A series of national strategies and action plans have been adopted since 2002. The National Strategy and Action Plan for 2013-2016 are comprehensive in nature and involve a range of stakeholders, both governmental and non-governmental. GRETA invites the Macedonian authorities to further strengthen co-ordination between public bodies and civil society actors engaged in anti-trafficking action and to ensure that the latter are provided with the financial resources necessary to carry out the relevant activities under the National Action Plan. GRETA also considers that the Macedonian authorities should take further steps to combat trafficking for the purpose of labour exploitation and pay increased attention to prevention and protection measures addressing the particular vulnerability of children to trafficking.

A range of measures have been taken by the Macedonian authorities, in co-operation with NGOs and intergovernmental organisations, to raise awareness about human trafficking. GRETA considers that future awareness-raising measures should be designed in the light of the assessment of previous measures and be focused on the needs identified. Awareness raising should continue targeting vulnerable groups and inform the general public of forms of trafficking which are on the rise, such as labour exploitation, forced begging, forced commission of criminal offences and trafficking within the country. Further, GRETA welcomes the measures taken vis-à-vis groups vulnerable to THB and considers that the authorities should continue to develop the aspect of prevention through social and economic empowerment measures. In this context, GRETA urges the Macedonian authorities to take steps to secure the registration of all persons, both as a prevention measure and in order to avoid re-trafficking.

GRETA welcomes the efforts to adopt a multi-disciplinary approach to the identification of victims of trafficking through the adoption of standard operating procedures prescribing the roles and responsibilities of different actors and the issuing of identification indicators and guidelines. GRETA urges the Macedonian authorities to take further steps to ensure that all victims of trafficking are properly identified and can benefit from all the assistance and protection measures provided for under the Convention. In particular, the Macedonian authorities should strengthen the capacity of the existing network of social workers to proactively identify victims of trafficking, pursue a proactive approach to the identification of victims of trafficking for the purpose of labour exploitation, and pay more attention to the identification of victims of trafficking among irregular migrants, asylum seekers and unaccompanied foreign minors.

The assistance and protection of victims of trafficking is provided by the Ministry of Labour and Social Policy, in collaboration with social work centres and NGOs. A State-funded shelter for victims of human trafficking was put in place in January 2011. GRETA urges the Macedonian authorities to ensure that all assistance measures provided for in law are guaranteed in practice, that suitable accommodation and assistance are provided to child and male victims of trafficking, and that presumed foreign victims of trafficking are moved to the State shelter as soon as there are reasonable grounds to believe that they are victims of trafficking.

GRETA welcomes the provision in Macedonian law of a recovery and reflection period (called “decision-making period”) longer than the minimum of 30 days envisaged under the Convention. However, GRETA urges the Macedonian authorities to ensure that this period is not conditional on the victim’s co-operation with the law enforcement authorities. The authorities should also ensure that victims of trafficking can fully benefit from the right to obtain a renewable residence permit.

Despite the existence of legal possibilities to obtain compensation, victims of trafficking do not have effective access to compensation. GRETA urges the Macedonian authorities to adopt measures to enable victims of trafficking to obtain compensation, in particular by ensuring that they are systematically informed, in a language that they can understand, of the right to seek compensation and the procedures to be followed, by providing effective access to legal aid and by setting up a State compensation scheme accessible to victims of trafficking.

Moreover, GRETA asks the Macedonian authorities to take legislative measures allowing for the possibility of not imposing penalties on victims of trafficking for their involvement in unlawful activities, to the extent that they were compelled to do so. While the identification procedure is ongoing, potential victims of trafficking should not be punished for immigration-related offences.

GRETA welcomes the law-enforcement and prosecution efforts against human trafficking in Serbia and invites the authorities to further develop the training and specialisation of prosecutors and judges, with a view to ensuring that human-trafficking offences are effectively investigated and prosecuted, leading to proportionate and dissuasive sanctions. Finally, GRETA considers that the Macedonian authorities should make full use of the measures available to protect victims and to prevent intimidation during the investigation and during and after the court proceedings.

I. Introduction

1. “The former Yugoslav Republic of Macedonia” deposited the instrument of ratification of the Council of Europe Convention on Action against Trafficking in Human Beings (“the Convention”) on 27 May 2005. The Convention entered into force for “the former Yugoslav Republic of Macedonia” on 1 September 2009.¹

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 (2010-2013), GRETA drew up a monitoring timetable according to which the Parties to the Convention were divided into groups, “the former Yugoslav Republic of Macedonia” being in the third group of 10 Parties to be evaluated.

3. In accordance with Article 38 of the Convention, GRETA proceeded with the examination of the measures taken by “the former Yugoslav Republic of Macedonia” to implement the provisions set out in the Convention. The “Questionnaire for the evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Parties - first evaluation round” was sent to the Macedonian authorities on 31 January 2012, the deadline for replying being 1 June 2012. “The former Yugoslav Republic of Macedonia” submitted its reply on 29 May 2012.

4. In preparation of the present report, GRETA used the Macedonian authorities’ reply to the questionnaire, other information collected by GRETA and information received from civil society. An evaluation visit to “the former Yugoslav Republic of Macedonia” took place from 20 to 23 May 2013. It was carried out by the following delegation:

- Ms Leonor Ladrón de Guevara y Guerrero, member of GRETA;
- Mr Ryszard Piotrowicz, member of GRETA;
- Ms Petya Nestorova, Executive Secretary of the Convention on Action against Trafficking in Human Beings.

5. During the visit, the GRETA delegation held meetings with officials from relevant ministries and public agencies, representatives of the judiciary and the Public Prosecutor’s Office (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), other members of civil society and lawyers (see Appendix II). It also met representatives of intergovernmental organisations present in “the former Yugoslav Republic of Macedonia”: the International Organisation for Migration (IOM), the Organisation for Security and Co-operation in Europe (OSCE), the United Nations High Commissioner for Refugees (UNHCR) and the United Nations Children’s Fund (UNICEF). GRETA is grateful for the information provided by them.

7. Further, in the context of the evaluation visit, the GRETA delegation visited the State shelter for victims of trafficking, the holding centre for foreign victims of trafficking and illegal migrants, and a day shelter for street children, all of them located in Skopje.

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

8. GRETA is grateful for the valuable assistance provided by the contact person appointed by the Macedonian authorities to liaise with GRETA, Mr Sande Kitanov, Deputy National Co-ordinator for Combating Trafficking in Human Beings and Head of the Unit for Trafficking in Human Beings and Smuggling of Migrants of the Ministry of the Interior, as well as by Ms Ana Burageva, Secretary of the National Commission for the Fight against Trafficking in Human Beings and Illegal Migration.

9. The draft version of the present report was adopted by GRETA at its 18th meeting (4-8 November 2013) and was submitted to the Macedonian authorities for comments on 18 December 2013. The authorities' comments were received on 11 February 2014 and have been taken into account by GRETA when drawing up the final report, which was adopted at GRETA's 19th meeting (17-21 March 2014).

II. National framework in the field of action against trafficking in human beings in “the former Yugoslav Republic of Macedonia”

1. Overview of the current situation in the area of trafficking in human beings in “the former Yugoslav Republic of Macedonia”

10. “The former Yugoslav Republic of Macedonia” is a country of origin, transit and destination of victims of trafficking in human beings (THB). Since 2009, the majority of the officially identified victims have been female children (all seven victims identified in 2009; eight out of nine victims in 2010; six out of 11 victims in 2011; five out of eight victims in 2012). The main form of exploitation was sexual but there were also a few cases of trafficking for the purpose of forced marriage and trafficking resulting in a combination of forms of exploitation (forced marriage and sexual and/or labour exploitation). The first two cases of trafficking of male victims were identified in 2012 (a man from Albania and a boy from “the former Yugoslav Republic of Macedonia”, both victims of labour exploitation). Some of the victims were trafficked internally.

11. In 2013, there were 82 potential victims of THB, of whom 15 were officially identified as victims of THB (six adult women and nine girls). Six of the officially identified victims were foreign citizens originating from Serbia, Albania and Kosovo*. Eight out of the nine Macedonian victims were minors, of whom four were trafficked within the country. Five of the victims were identified abroad (in France, Croatia, Belgium and Switzerland). Seven of the victims were subjected to a combination of sexual and labour exploitation, four to sexual exploitation, two to labour exploitation, and two to forced marriage resulting in labour or sexual exploitation.

12. Until the mid-2000s, “the former Yugoslav Republic of Macedonia” was primarily a country of destination for victims of THB and the number of women and girls (primarily from the Republic of Moldova, Romania and Ukraine) identified as victims of THB was in the region of 100-250 per year.² As a result of the EU visa liberalisation, the introduction of higher penalties for trafficking offences and changes in the traffickers’ *modus operandi*, “the former Yugoslav Republic of Macedonia” has become primarily a country of origin of victims of trafficking and the official figures of identified victims have dropped substantially. The foreign nationals identified as victims of trafficking in recent years have originated from Albania, Bosnia and Herzegovina, and Kosovo*. At the same time, the number of irregular migrants has been on the rise (according to the 2012 report of the National Commission for the Fight against THB and Illegal Migration, 682 irregular migrants were detected in 2012).

² According to information provided by IOM Skopje, the number of foreign victims of THB assisted by IOM was 114 in 2000, 257 in 2001, 220 in 2002, 134 in 2003, 15 in 2004, 3 in 2005, 14 in 2006, 13 in 2008, and 2 in 2009.

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

a. Legal framework

13. At the international level, in addition to the Council of Europe Convention on Action against Trafficking in Human Beings, “the former Yugoslav Republic of Macedonia” is Party to the United Nations Convention against Transnational Organised Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (ratified respectively on 29 September and 26 December 2003). “The former Yugoslav Republic of Macedonia” is also Party to the UN Convention on the Rights of the Child and its Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (ratified on 18 January 2002), the Convention on the Elimination of All Forms of Discrimination against Women (ratified on 18 January 1994), as well as the following conventions elaborated under the International Labour Organisation (ILO): Convention concerning Forced or Compulsory Labour (No. 29), 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). Further, “the former Yugoslav Republic of Macedonia” is Party to a number of Council of Europe conventions in the criminal field which are relevant to action against THB.³

14. Trafficking in human beings was criminalised in “the former Yugoslav Republic of Macedonia” in February 2002 when Article 418-a, entitled “Trafficking in persons”, was added to the Criminal Code (CC). Subsequent amendments to the CC introduced the criminal responsibility of legal entities for THB, added a separate article on trafficking in children and increased the maximum penalty for THB. Presently Chapter XXXIV of the CC, entitled “Crimes against humanity and international law” contains several articles relevant to action against human trafficking: “Founding a slave relationship and transportation of persons in slavery” (Article 418), “Trafficking in human beings” (Article 418-a), “Smuggling of migrants” (Article 418-b), “Organising a group and instigation to commit acts of trafficking in human beings, smuggling of migrants and trafficking in children” (Article 418-c), and “Trafficking in children” (Article 418-d). Furthermore, in February 2014, amendments were made to Articles 418-a and 418-d of the CC through the Law on Amendments and Supplements to the Criminal Code (see paragraphs 50, 52 and 53).⁴

15. A number of other internal legal acts have relevance to action against THB, in particular:

- the Law on the Family of 2008⁵ which contains a new Chapter V-a entitled “Custody over juveniles victims of trafficking in human beings”;
- the Law on Child Protection, amended and supplemented in 2009, Article 9 of which bans all forms of exploitation and abuse of children, including trafficking in children;
- the Law on Social Protection of 2009⁶, Articles 31, 132 and 145 of which contain provisions concerning the assistance and protection of victims of THB; in May 2013, through the Law on Amendments and Supplements to the Law on Social Protection,⁷ victims of THB were included among the categories of persons entitled to health protection (Article 84);
- the Law on Free Legal Assistance of 2009, amended and supplemented in 2011 and 2014,⁸ which includes victims of THB into the category of victims of criminal offences entitled to free legal assistance;
- the new Criminal Procedure Law⁹, which entered into force on 1 December 2013.

³ In particular, the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse; the European Convention on Mutual Assistance in Criminal Matters and its Additional Protocols; the European Convention on Extradition and its Additional Protocols; the European Convention on the Transfer of Proceedings in Criminal Matters; and the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism.

⁴ Official Gazette of the Republic of Macedonia No. 27/2014.

⁵ Official Gazette of the Republic of Macedonia No. 84/2008.

⁶ Official Gazette of the Republic of Macedonia No. 79/2009.

⁷ Official Gazette of the Republic of Macedonia No. 79/2013.

⁸ Official Gazette of the Republic of Macedonia No. 161/2009, No. 185/2011 and No. 27/2014.

⁹ Official Gazette of the Republic of Macedonia, No. 150/2010.

16. In terms of secondary legislation, particular reference should be made to the “Rulebook on the norms and standards for premises, equipment, expert personnel and means necessary for the operation of the social protection facility Centre for victims of trafficking in human beings”, adopted by the Ministry of Labour and Social Policy in July 2010.¹⁰

b. National Strategies and Action Plans

17. The first National Programme for Combating Trafficking in Human Beings and Illegal Migration¹¹ was adopted in 2002.¹² Subsequent national strategies and action plans covered respectively the periods 2006-2008 and 2009-2012. Further, in 2008, a specific action plan for combating trafficking in children for 2009-2012 was adopted.

18. In April 2012, a working group was set up to draft a new National Strategy and Action Plan for Combating THB and Illegal Migration for the next time period (2013-2016). It involved representatives of governmental structures, civil society and intergovernmental organisations. Prior to the drafting of the new strategy, an evaluation of the previous strategy was carried out by an independent expert from Skopje State University, selected through a public call.

19. The new National Strategy for Combating Trafficking in Human Beings and Illegal Migration for the period 2013-2016 was adopted and published in December 2012, together with a detailed action plan containing objectives, expected results, activities, competent institutions, indicators, timeframe and predicted financial implications. The activities are organised under four pillars:

- support framework (co-ordinating structures, legal framework, international co-operation);
- prevention (research aimed at identifying the root causes of THB, capacity building through training and education for school children, raising public awareness, reducing vulnerability);
- support and protection of victims and migrants (identification and referral, direct assistance and protection of victims and migrants);
- pre-investigation proceedings and criminal prosecution of THB and smuggling of migrants (proactive and reactive investigation, training for judges and prosecutors, etc.).

20. It is stated in the National Strategy for 2013-2016 that although previously the fight against trafficking in human beings was primarily focused on trafficking for the purposes of sexual exploitation, the Government acknowledges the need for a wider range of activities in combating THB, in particular for labour exploitation, forced begging and forced marriages. Special attention has been dedicated to the issue of trafficking in children, with a number of activities being included in the National Action Plan rather than in a separate action plan concerning children. The main novel elements of the strategy and action plan concern the establishment of local anti-trafficking commissions; setting up of mobile teams at the local level for identification, assistance and support of potential victims and groups at risk; preparation of indicators for the identification of victims of THB, including children, by type of exploitation; provision of free health care and free legal aid to victims of trafficking; setting up of a State fund for the compensation of victims; setting up of a centralised database for victims and perpetrators; identification of potential victims of THB among irregular migrants; organisation of campaigns aimed at reducing demand for the services of trafficked persons; and the creation of joint investigation teams (JITs).

¹⁰ Official Gazette of the Republic of Macedonia No. 100/2010.

¹¹ Title used by the Macedonian authorities.

¹² Official Gazette of the Republic of Macedonia No. 10/2002.

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

- a. National Commission for the Fight against Trafficking in Human Beings and Illegal Migration

21. The National Commission for the Fight against Trafficking in Human Beings and Illegal Migration (hereinafter “National Commission”) was set up in 2001 by the Government of “the former Yugoslav Republic of Macedonia” as an inter-ministerial co-ordination body tasked with the implementation of the policy for combating trafficking in human beings and irregular migration.¹³ Currently the National Commission is composed of the following representatives of ministries and public agencies:

- the National Co-ordinator for Combating THB and Illegal Migration, who is a State Secretary in the Ministry of the Interior;
- the Deputy National Co-ordinator for Combating THB and Illegal Migration, who is the Head of the Unit against Trafficking in Human Beings and Smuggling of Migrants of the Ministry of the Interior;
- the Secretary of the National Commission, who is a Councillor in the Office of the State Secretary of the Ministry of the Interior;
- a judge from the Basic Court Skopje 1;
- a senior police officer dealing with illegal migration at the Ministry of the Interior;
- a senior police officer from the Regional Centre for Border Affairs North-Skopje, Ministry of the Interior;
- a senior police officer dealing with prevention, Sector for Border Affairs of the Ministry of the Interior;
- two State councillors from the Ministry of Labour and Social Policy;
- the Head of Section for Strategic Planning in the Ministry of Health;
- a prosecutor from the Basic Public Prosecution Office dealing with cases of organised crime and corruption;
- the Director of the Training Centre of the Ministry of the Interior;
- an official from the Customs Office;
- an official from the Ministry of Foreign Affairs;
- an official from the Ministry of Justice;
- an official from the Bureau for Development of Education.

22. The National Commission is responsible for monitoring and analysing the state of affairs as regards trafficking in human beings and irregular migration, co-ordinating the activities of competent public bodies and co-operating with international organisations, donors and NGOs. Further, it is tasked with drafting and adoption of national strategies and action plans for the fight against THB and irregular migration. The National Commission publishes annual reports on THB and irregular migration in the country, as well as an annual bulletin on its activities. A special template (form) has been developed to monitor progress in the implementation of the National Action Plan and all stakeholders are asked to submit information on their activities in the areas of prevention, protection, reintegration and re-socialisation of victims of THB. The Standard Operating Procedures for the treatment of victims of THB, periodically revised by the National Commission and adopted by the Government (the last revised version is from October 2012), regulate the procedures for the identification, referral to assistance and protection, and return of victims of trafficking.

¹³

Decision published in the Official Gazette of the Republic of Macedonia No. 18/2001.

23. The National Commission meets at least four times a year. The implementation of the Commission's decisions is carried out by the so-called "Secretariat", which was created in 2003 and brings together representatives of civil society, intergovernmental organisations, international donors and experts from governmental institutions. Presently the Secretariat of the National Commission is composed of 15 persons, including three officials (the Secretary of the National Commission and experts from the Ministry of the Interior and the Ministry of Labour and Social Policy), five civil society representatives (from the NGOs Open Gate/La Strada, For Happy Childhood, Semper - Bitola, Ezerka - Struga and the Macedonian Red Cross), and representatives of the International Centre for Migration Policy Development (ICMPD), IOM, OSCE, UNICEF, GIZ (*Deutsche Gesellschaft für Internationale Zusammenarbeit GmbH*), the Migration, Asylum, Refugees Regional Initiative (MARRI) Regional Centre in Skopje, and the US Embassy.

24. A sub-group on child trafficking was set up within the National Commission in 2003. It currently includes representatives of the Ministry of the Interior, the Ministry of Education, the Ministry of Health, the Agency for Sport and Youth, ICMPD, IOM, OSCE, GIZ, UNICEF and the NGOs Open Gate, "For Happy Childhood" and "Equal Access". Further, a Deputy Ombudsman participates as an observer.

25. The National Commission does not have a dedicated budget and its Secretariat works on a voluntary basis. Each Ministry is expected to allocate money from its own budget for the implementation of activities under the National Action Plan. According to the 2012 report on the National Commission, the Government allocated for anti-trafficking activities 1 500 000 MKD (approximately 24 636 euros), the Ministry of Labour and Social Policy - 663 000 MKD (approx. 10 900 euros), the Ministry of the Interior - 5 850 000 MKD (approx. 91 700 euros), international organisations – 520 000 euros and 1 292 800 USD, and civil organisations - 10 307 000 MKD (approx. 169 500 euros). The financial resources for anti-trafficking activities in 2013 were similar to those in 2012, with some 84 670 euros coming from State institutions,¹⁴ 181 280 euros from NGOs and some 500 000 euros from international donors.

26. GRETA was informed that the setting up of three local anti-trafficking commissions was planned for 2013-2014 as part of the new national action plan. In their comments to the draft GRETA report, the Macedonian authorities indicated that two local commissions had been set up in 2013 in Tetovo and Bitola, composed of representatives of the municipal authorities, police, labour inspectorate, Prosecutor's Office, health and education authorities, employment centres and local NGOs. By-laws were adopted providing rules of procedure of the local commissions. Further, a workshop was organised on the preparation of local action plans against THB and illegal migration.

b. National Co-ordinator for Combating Trafficking in Human Beings and Illegal Migration

27. The National Co-ordinator is State Secretary at the Ministry of the Interior. She directs the work of the National Commission and represents "the former Yugoslav Republic of Macedonia" at various international fora dealing with issues related to THB.

c. National Rapporteur on Trafficking in Human Beings

28. In 2009, a senior official at the Ministry of the Interior was appointed as National Rapporteur on Trafficking in Human Beings, a role that he combines with the function of Chief of Staff of the Office of the Minister of the Interior. The National Rapporteur produces annual reports on human trafficking in "the former Yugoslav Republic of Macedonia" which include statistical data and information on new trends. The reports are submitted to the National Commission and are made public. A special form for the purpose of collecting information is sent out to all relevant stakeholders, including NGOs.

¹⁴ 20 976 euros from the Government (four grants for NGOs), 13 708 euros from the Ministry of Labour and Social Policy (for the Centre for Victims of THB) and 49 976 euros from the Ministry of the Interior.

d. Ministry of the Interior

29. A specialised Unit against THB and Smuggling of Migrants has been set up within the Ministry of the Interior, with 11 staff. It is responsible for all investigations into THB and smuggling of migrants and its primary task is to detect perpetrators. The unit's staff interview all possible victims of trafficking and participate in their identification. As part of an IPA project funded by the European Commission, Standard Operating Procedures for police officers, containing indicators for the identification of victims of trafficking for different forms of exploitation, are in the process of being prepared on the basis of experience from Ireland.

e. Ministry of Labour and Social Policy

30. A National Referral Mechanism (NRM) for victims of trafficking in human beings was first introduced in September 2005 as part of a project implemented with the support of the OSCE Mission in Skopje. In 2009 the NRM was institutionalised through the setting up of the Office of the NRM within the Sector for Equal Opportunities of the Ministry of Labour and Social Policy. The Office employs two persons and is responsible for co-ordinating the referral of identified victims to assistance, their accommodation, protection, re-integration and re-socialisation. The Office of the NRM is in contact with 54 trained social workers in the 30 social work centres throughout the country (who are available around the clock on mobile phones) and is also in communication with the police and NGOs. In January 2012, the Standard Operating Procedures for the treatment of victims of THB were updated by the Office of the NRM and were adopted by the Government with a view to defining the roles and responsibilities of all relevant actors and providing guidance for their co-operation. Since 2011, the Ministry of Labour and Social Policy is also responsible for running the Centre (shelter) for victims of human trafficking (see paragraph 149).

f. Basic Court Skopje 1 and Basic Public Prosecutor's Office for organised crime and corruption

31. Since 2008, the Basic Court Skopje 1 is the only court in the country dealing with cases of organised crime, including trafficking in human being, people smuggling, money laundering and corruption. It has eight trial judges and four investigating judges.

32. The Basic Public Prosecutor's Office for organised crime and corruption is competent for prosecuting all THB cases in the country, regardless of whether they were committed by organised crime groups or not. It employs 12 prosecutors, one of whom deals mostly with THB cases.

g. NGOs, other civil society actors and international donors

33. Non-governmental organisations play a vital role in anti-trafficking action in "the former Yugoslav Republic of Macedonia", through awareness-raising activities, training of professionals, assistance to victims, research and monitoring of anti-trafficking action. As mentioned in paragraph 25, a number of NGOs are involved in the activities of the National Commission through its Secretariat and the sub-group of child trafficking.

34. The NGO Open Gate/La Strada has been active in the anti-trafficking field since the early 2000s. Its activities have involved prevention among risk groups and the general public, lobbying, training, assistance to victims, operating a help-line and running a shelter for victims of THB between 2005 and 2011. After the State took over the running of the shelter for victims of trafficking in 2011, a Memorandum of Co-operation was signed between the Ministry of Labour and Open Gate/La Strada whereby the latter provides medical and legal assistance to victims at the State shelter. In 2012 the memorandum expired, but GRETA was informed that in September 2013 the Ministry of Labour and Social Policy had extended it.

35. The NGO “For Happy Childhood”, which has been in operation since 2001, is an association for the support and protection of children and families at risk. This NGO is presently involved in the provision of psychological assistance to trafficked persons in the State shelter for victims, on the basis of a Memorandum of Understanding with the Ministry of Labour and Social Policy, and is also engaged in training, preventive activities and research.

36. The NGO “Equal Access” (*Ednakov pristap*), which has been engaged in anti-trafficking action since 2008, is currently involved in a two-year long project supported by the King Baudouin Foundation of Belgium and GIZ on the identification and reintegration of victims of trafficking at the regional level. The project involves the setting up of mobile teams involving social workers and NGO members in three regions, which detect both trafficked persons and persons at risk of falling victim to THB (see also paragraph 137). Equal Access has signed Memoranda of Understanding with three social work centres via the Ministry of Labour and Social Policy.

37. The NGO Ezerka in Struga is a women’s rights organisation working mainly on prevention, which has been a partner of Open Gate/La Strada in the national network since 2005. Further, the women’s rights organisation of Sv. Nikole is currently working on the long-term social inclusion of trafficked persons and persons at risk of falling victim to trafficking.

38. The Union of Independent and Autonomous Trade Unions of Macedonia (UNASM) is currently involved in a multi-annual project supported by the Dutch Trade Unions regarding prevention of labour exploitation and trafficking. Mobile teams have been set up in different towns where the Trade Unions have offices, paying particular attention to the sectors of agriculture, construction and tourism.

39. Since 2009 the Macedonian Red Cross has run an anti-trafficking prevention programme which aims at raising awareness among the most socially and economically vulnerable groups and young people. The programme involves peer education in elementary and high schools and the publication of a training manual and information materials in Macedonian and Albanian.

40. A number of Memoranda of Understanding have been concluded between the above-mentioned civil society organisations and the Ministry of Labour, the Ministry of the Interior and the Ministry of Education (see paragraphs 34, 36 and 103).

41. Since the early 2000s, the putting in place of the anti-trafficking legislation and institutional framework in “the former Yugoslav Republic of Macedonia” has been supported by international organisations, in particular OSCE, IOM and ICMPD. A number of projects focusing on capacity building and training have been funded by international donors. By way of example, IOM was involved in the issuing of handbooks on the identification of victims of trafficking by the police and by labour inspectors. A number of activities, including some related to the evaluation of the National Strategy 2009-2012 and the drafting of the National Strategy and Action Plan 2013-2016, have been supported by GIZ on behalf of the German Federal Ministry for Economic Co-operation and Development (BMZ).¹⁵ Further, research on THB has been supported by the King Baudouin Foundation and GIZ. OSCE is assisting the National Commission with the setting up of three local anti-trafficking commissions in 2013-2014. The King Baudouin Foundation has also financed projects involving centres for social work, aimed at providing assistance and monitoring the process of victims’ integration after their departure from reception centres. Another project is being implemented in Bitola, Gostivar and Kumanovo to improve the identification of victims of THB, their re-socialisation and re-integration as a way of preventing re-trafficking.

15

<http://www.htsocialprotection.org/applynow.html>

III. Implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by “the former Yugoslav Republic of Macedonia”

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

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

42. Article 1(1)(b) of the Convention establishes as one of its purposes the protection of the human rights of the victims of trafficking. Further, Article 5(3) includes the obligation for Parties to promote a human rights-based approach in the development, implementation and assessment of the policies and programmes to prevent THB. The Explanatory Report on the Convention states that the main added value of the Convention is its human rights perspective and focus on victim protection. In the same vein, the United Nations Recommended Principles and Guidelines on Human Rights and Human Trafficking emphasise that “the human rights of trafficked persons shall be at the centre of all efforts to prevent and combat trafficking and to protect, assist and provide redress to victims.”¹⁶

43. THB constitutes an offence to the dignity and fundamental freedoms of the human being and thus a grave violation of human rights. GRETA emphasises the obligations of States to respect, fulfil and protect human rights, including by ensuring compliance by non-State actors, in accordance with the duty of due diligence. A State that fails to fulfil these obligations may, for instance, be held accountable for violations of the European Convention on Human Rights and Fundamental Freedoms (the ECHR). This has been confirmed by the European Court of Human Rights in its judgment in the case of *Rantsev v. Cyprus and Russia*, where the Court concluded that THB within the meaning of Article 3(a) of the Palermo Protocol and Article 4(a) of the Anti-Trafficking Convention, falls within the scope of Article 4 of the European Convention on Human Rights (which prohibits slavery, servitude and forced or compulsory labour).¹⁷ The Court further concluded that Article 4 entails a positive obligation to protect victims or potential victims, as well as a procedural obligation to investigate trafficking¹⁸.

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

45. GRETA wishes to stress the need for States to also address THB as a form of violence against women and to take account of gender-specific types of exploitation, as well as the particular situation of child victims of trafficking, in line with the relevant international legal instruments.¹⁹

¹⁶ 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>

¹⁷ *Rantsev v. Cyprus and Russia*, no. 25965/04, paragraph 282, ECHR 2010.

¹⁸ See *Siliadin v. France*, application No. 73316/01, judgment of 26 July 2005, ECHR 2005 VII; *C.N. and V. v. France*, application No. 67724/09, judgment of 11 October 2012, and *C.N. v. United Kingdom*, application No. 4239/08, judgment of 13 November 2012.

¹⁹ Such as the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, the United Nations Convention on the Rights of the Child and the Optional Protocol thereto on the sale of children, child prostitution and child pornography, and the United Nations Convention on the Elimination of All Forms of Discrimination against Women.

46. In “the former Yugoslav Republic of Macedonia”, trafficking in human beings is criminalised under Chapter XXI of the CC entitled “Crimes against humanity and international law” and, according to the Macedonian authorities, is considered both as a crime and a violation of human rights.

47. According to the Constitution of “the former Yugoslav Republic of Macedonia”, international legal instruments ratified by the country become a constituent part of the domestic legal system. If the legal protection against human trafficking is not explicitly regulated under national legislation, courts may apply the Council of Europe Convention on Action against Trafficking in Human Beings to provide appropriate remedies. However, to GRETA’s knowledge, there is no case law in “the former Yugoslav Republic of Macedonia” referring to rights under the Convention.

48. 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 Macedonian authorities in these fields.

b. Definitions of “trafficking in human beings” and “victim of THB” in Macedonian law

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

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

50. The definition of the offence of THB in Macedonian law is provided in Article 418-a, paragraph 1, of the Criminal Code (CC) which reads: “A person who by force, serious threat misleads or uses other forms of coercion, kidnapping, deception with abuse of his/her own position or a position of pregnancy, weakness, physical or mental incapability of another person, or by giving or receiving money or other benefits in order to obtain agreement of a person that has control over other person or in any other manner, recruits, transports, transfers, buys, sells, harbours or accepts persons for the purpose of exploitation through prostitution or other forms of sexual exploitation, pornography, forced labour or servitude, slavery, forced marriages, forced fertilisation, unlawful adoption, or similar relationship or illicit transplanted of human body parts, shall be punished with imprisonment of at least four years”.²⁰ As a result of the amendments and supplements made to the CC in February 2014 (see paragraph 14), the word “fertilisation” was replaced by “pregnancy”, and “begging and exploitation through illegal activity” were added to the forms of exploitation.

51. The above definition includes the three constituent elements of THB as regards adults, in line with Article 4(a) of the Convention. The actions covered by Article 418-a, paragraph 1, of the CC include, in addition to the ones provided for in the Convention, to “sell” and to “buy”. All the means provided for under the Convention are covered by Article 418-a, paragraph 1, of the CC. GRETA notes that the provision in Macedonian law refers to “abuse of a position of pregnancy, weakness, physical or mental incapability”, which according to the Macedonian authorities corresponds to, and is interpreted as, “abuse of a position of vulnerability” contained in Article 4(a) of the Convention.

²⁰

Unofficial translation provided by the Macedonian authorities.

52. GRETA notes with interest that the forms of exploitation covered by the definition of THB under Article 418-a of the CC include, in addition to those explicitly mentioned in the Convention, forced marriage and forced pregnancy. Further, as previously noted, the forms of exploitation have been expanded following recent amendments to the CC and currently include “begging and exploitation through illegal activity”.

53. Article 418-d, paragraph 1, of the CC entitled “Trafficking in minors”, which was introduced in 2008, reads: “Any person who recruits, transports, transfers, buys, sells, harbours or accepts a minor for the purpose of exploitation by prostitution or other forms of sexual exploitation, pornography, forced labour or servitude, slavery, forced marriage, forced fertilisation, illegal adoption or similar relationship, or illegal transplantation of human organs, shall be sentenced to imprisonment of at least eight years.” Consequently, trafficking of a minor²¹ is punishable even if no means have been used, which is in conformity with the Convention. The use of means is considered as aggravating circumstances under Article 418-d, paragraph 2, of the CC. Through the recent amendments and supplements to the CC referred to in paragraph 14, the text of Article 418-d, paragraph 1, of the CC was replaced by a new text, in which the word “minor” is substituted by “child”.²² GRETA notes that forced begging is not mentioned among the forms of exploitation. The Macedonian authorities have indicated that the protection of children from any kind of abuse is provided through Article 201 of the CC (“negligence and abuse of a minor”), which includes forced begging among the forms of exploitation of a child.

54. Pursuant to Article 4(b) of the Convention, the consent of the victim is irrelevant where any of the means set forth in the definition of THB have been used. GRETA notes with satisfaction that the 2008 amendments of the CC²³ introduced a specific reference to the issue of consent as follows: “The consent of the human trafficking victim in relation to the intent for exploitation, as referred to in paragraph (1), shall not bear any importance regarding the existence of the criminal offence as referred to in paragraph (1).”²⁴

55. Article 418 of the CC entitled “Founding a slave relationship and transportation of persons in slavery” reads as follows: “(1) A person who by violating the rules of international law places another in slavery or in some similar relationship, or keeps him in such relationship, buys him, sells him, hands him over to another, or mediates in the buying, selling or handing over of such a person, or instigates another to sell his freedom or the freedom of a person he is keeping or caring for, shall be punished with imprisonment of one to 10 years.”²⁵ No cases have been prosecuted under this provision.

56. For further analysis of the definition of THB and related offences from a substantive criminal law perspective, see paragraphs 185-191.

²¹ In Macedonian law, a “minor” is a person under 18 years of age.

²² The new text reads as follows: “A person who procures a child to perform sexual acts or to enable performing sexual acts with a child or who recruits, transports, transfers, buys, sells or offers for sale, acquires, delivers, harbors or receives a child for exploitation by its use in sexual activities for money or other gain, or other forms of sexual exploitation, pornography, forced labor or servitude, slavery, forced marriages, forced fertilisation, illegal adoption or extortion as an intermediary for the adoption of a child, illicit transplantation of human organs, shall be punished with imprisonment of at least eight years.” Official Gazette of the Republic of Macedonia No. 27 of 5.02.2014.

²³ Official Gazette of the Republic of Macedonia No.7 of 15.01.2008.

²⁴ Article 418-a, paragraph 5 and Article 418-d, paragraph 6, of the CC.

²⁵ Unofficial translation provided by the Macedonian authorities.

ii. *Definition of “victim of THB”*

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

58. Macedonian law does not contain a definition of a victim of THB as such. The 2008 amendments of the Criminal Code define the term “victim of crime” as “any individual having suffered a damage, including physical or mental injury, emotional suffering, material loss or another violation or endangerment of his/her basic freedoms and rights as a consequence of a committed criminal act.” The Macedonian authorities have referred to the 2010 Criminal Procedure Law which regulates the rights of victims under Chapter V entitled “Victim, damaged party and private plaintiff from” (Articles 53 to 56). Pursuant to these provisions, the victim of a crime has the following rights: “1) to participate in the criminal procedure as a damaged party by adhering to the criminal prosecution or for realisation of a damage claim; 2) to special care and attention on the part of bodies and subjects participating in the criminal procedure; and 3) to efficient psychological and other expert assistance and support by bodies, institutions and organisations for assistance of victims of crime.”²⁶ These provisions stipulate an obligation for the police, public prosecutor and court to treat victims of crimes with special care and to see to their interests when making decisions regarding criminal prosecution, i.e. when undertaking criminal procedure activities which require the presence of the victim. Further, the victim of a crime for which a prison sentence of at least four years is prescribed (such as human trafficking), is entitled to a legal counsellor at state expense when giving a statement, if there are serious psychological and physical damages or more serious consequences from the criminal act, and compensation for material and non-material injury from a state fund under the terms and in the manner prescribed by a special law, if the damage compensation cannot be recovered from the defendant. There are also special provisions for the procedural protection of vulnerable categories of victims when giving statements and during the investigation at all stages of the procedure. Moreover, the Law on Social Protection contains provisions on the protection of victims of THB (see paragraph 147).

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

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

i. *Comprehensive approach and co-ordination*

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

²⁶

Unofficial translation provided by the Macedonian authorities.

61. The legal and policy framework in the field of action against THB in “the former Yugoslav Republic of Macedonia”, outlined above, has evolved over the years and is intended to cover all victims of human trafficking subjected to different types of exploitation, both transnationally and nationally, whether or not connected with organised crime. The National Strategy and Action Plan for 2013-2016 include a range of stakeholders, both governmental and non-governmental, and cover the aspects of co-ordination, international co-operation, prevention, protection and prosecution. GRETA welcomes the independent evaluation of the implementation of the National Strategy 2009-2012 which was conducted at the request of the Macedonian authorities with the financial support of GIZ.

62. As pointed out in paragraph 13, “trafficking in human beings” and “smuggling of migrants” are criminalised in “the former Yugoslav Republic of Macedonia” through distinct provisions (however, see paragraph 187). GRETA notes that national anti-trafficking policy is frequently associated with action against smuggling of migrants, as is evident from the title of the National Strategy and Action Plan, and several bodies are tasked with tackling both phenomena (e.g. the National Commission for the Fight against Trafficking in Human Beings and Illegal Migration, the Ministry of the Interior Unit against THB and Smuggling of Migrants). It is true that two these phenomena may sometimes be linked. In particular, victims of migrant smuggling may, in some cases, become victims of trafficking once they have arrived in the destination country. **GRETA considers that the Macedonian authorities should continue to raise awareness among professionals and the general public as regards the scope of the definition of trafficking in human beings and the difference and links between human trafficking and migrant smuggling.**

63. The Macedonian authorities have depended to a large extent on foreign donors to finance anti-trafficking activities, but the amount of funding available has decreased over the years and therefore securing funding from the State budget will be indispensable for the implementation of the new strategy and action plan. GRETA notes the lack of dedicated State funding for the activities under the National Action Plan for 2013-2016, which have to be covered from the budgets of the different stakeholders. In 2014, the planned budget for anti-trafficking activities carried out by the Ministry of the Interior and the Ministry of Labour and Social Police is the same as in 2013 (see paragraph 25).

64. As mentioned in paragraph 33, NGOs play an important role in anti-trafficking action in “the former Yugoslav Republic of Macedonia”. Currently five NGOs participate in the Secretariat of the National Commission. GRETA notes that the National Action Plan for 2013-2016 refers repeatedly to civil society organisations as implementing partners (e.g. in the context of training, identification of risk groups, awareness raising, assisting victims, etc.). GRETA welcomes the conclusion of Memoranda of Understanding between NGOs and the public authorities. However, GRETA was informed that the anti-trafficking activities of NGOs receive little funding from the State (grants of around 300 000 MKD, i.e. some 5 000 euros per year, are given to up to five specialised NGOs). Further, according to civil society actors, communication between the National Commission and its Secretariat should be improved, for instance by providing more feedback on the Commission’s work and decisions to the Secretariat. The Trade Unions are currently not involved in the Secretariat, but given their role in anti-trafficking action, their participation in co-ordinating structures should be encouraged.

65. The National Action Plan for 2013-2016 includes several activities under the heading “co-ordinating structures” which are aimed at increasing the level of information available to the Secretariat of the National Commission on the activities of stakeholders and improving the information flow from the National Commission members to their home institutions/organisation. Further, as noted in paragraph 26, it is envisaged to strengthen capacities at the local level, as well as co-ordination between institutions and civil society, through the setting up of local anti-trafficking commissions and local mobile teams for the identification and referral of victims. GRETA welcomes the plans to develop anti-trafficking networks at the local level which can have a positive effect.

66. At present, the National Co-ordinator is not a separate post. Given that the National Co-ordinator is expected to perform a variety of tasks linked to the planning, implementation and evaluation of anti-trafficking measures, GRETA considers strengthening the human and financial resources of the National Co-ordinator to be indispensable for completing these tasks. GRETA notes that, in a number of countries, the structures which co-ordinate action against THB are not placed within a particular Ministry but, rather, are directly subordinated to the Cabinet of Ministers; this can be considered a good practice as it demonstrates the willingness of the authorities to ensure that such structures have a genuine inter-agency functioning.

67. As noted in paragraph 20, the Macedonian authorities acknowledge the growing problem of trafficking for the purpose of labour exploitation and are making efforts to address this form of trafficking. However, there is a lack of information about the scale of trafficking for the purpose of labour exploitation. GRETA was informed of a case in 2012 concerning exploitation of Macedonian nationals on a mushroom farm in the Netherlands, as well as a case of alleged labour exploitation in Azerbaijan (the so-called “Serb-Az case”, see paragraph 202). Representatives of public bodies and NGOs acknowledge the need to build the capacity of frontline staff to proactively detect THB for labour exploitation. In 2012, the Labour Inspectorate was involved in training on THB issues and was invited to take part in the National Commission. The Macedonian authorities have indicated that the Labour Inspectorate is involved in the implementation of the National Action Plan for 2013-2016 and labour inspectors are always present during police raids of night clubs which are suspected of using victims of THB. However, the Standard Operating Procedures (see paragraph 133) do not involve labour inspectors

68. As noted in paragraph 10, children have constituted the majority of identified trafficking victims in “the former Yugoslav Republic of Macedonia” in 2009-2012. Despite efforts in the area of education and awareness raising and measures to decrease the vulnerability of children to THB (see paragraphs 102-106 and 118-122), children from disadvantaged groups, in particular Roma, remain particularly vulnerable to trafficking. The National Strategy and Action Plan for 2013-2016 pay special attention to the issue of trafficking in children, in accordance with the recommendations of the National Commission’s sub-group on combating trafficking in children. The activities envisaged include research and analysis for the purpose of identifying risks and groups at risk of human trafficking and illegal migration, training for teachers, police officers and guardians of child victims of trafficking, education on human trafficking in elementary and secondary schools, organising awareness-raising campaigns focusing on trafficking in children, revising the programme for children’s reintegration and re-socialisation.

69. Although forced begging of children is criminalised under Article 201 of the CC, it is not specifically included as a form of exploitation in Article 418-d, paragraph 1, of the CC (“trafficking in children”) and there has been no recent analysis of the situation as regards trafficking for the purpose of forced begging. As regards forced marriages, which are specifically mentioned as one of the forms of exploitation related to THB, there have been several cases of marriages which led to the sexual and/or labour exploitation of girls and women, who were identified as victims of THB (see paragraphs 10 and 11).

70. According to a study conducted in 2006 by the NGO “For Happy Childhood”²⁷ (see also paragraph 89), internal trafficking is taking place in “the former Yugoslav Republic of Macedonia”, in particular in Skopje and other big cities, mostly for sexual exploitation, with a growing number of children being involved. According to the results of the research, 79 respondents from various institutions and organisations had direct or indirect knowledge of 129 cases of victims of internal trafficking and 661 cases of victims of other forms of exploitation close to human trafficking.

²⁷

For Happy Childhood, *Internal Trafficking in Persons in the Republic of Macedonia*, Skopje, December 2006.

71. As noted in paragraph 11, the number of foreign nationals identified as victims of THB in “the former Yugoslav Republic of Macedonia” has dropped substantially in the last several years. However, there is general acknowledgment that foreign victims of trafficking both transit “the former Yugoslav Republic of Macedonia” and reach it as a country of final destination. Concerns have been expressed by NGOs that not enough attention is paid to the identification of victims of THB among irregular migrants who are extradited before being identified and given the opportunity to recover and co-operate in the investigation of THB offences. In their comments to the draft GRETA report, the Macedonian authorities have indicated that in 2013, there were 61 potential victims of trafficking who were foreign citizens detected as working illegally in the country, in particular through raids of bars and restaurants. They were temporarily placed in the holding centre for foreigners in Skopje (see paragraph 155) while the investigation of possible elements of trafficking was ongoing.

72. GRETA invites the Macedonian authorities to further strengthen co-ordination between public bodies and civil society actors engaged in anti-trafficking action and to ensure that the latter are provided with the financial resources necessary to carry out the relevant activities under the National Action Plan for 2013-2016.

73. GRETA considers that the Macedonian authorities should establish a fully-fledged post of National Co-ordinator supported by a dedicated office which is commensurate with the tasks at hand, to enable this body to effectively carry out its mandate. Further, GRETA invites the Macedonian authorities to establish the National Rapporteur as a *de jure* independent post with a mandate to monitor the anti-trafficking activities of State institutions (see Article 29, paragraph 4, of the Convention and paragraph 298 of the Explanatory Report).

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

- **strengthen action to combat THB for the purpose of labour exploitation by involving labour inspectors, civil society, businesses, trade unions and employment agencies in a joint platform and improving the identification of, and assistance, to victims of THB for the purpose of labour exploitation;**
- **pay increased attention to prevention and protection measures addressing the particular vulnerability of children to trafficking, in particular children from socially vulnerable groups, and ensure that the best interests of the child are fully taken into account;**
- **ensure that trafficking for the purpose of forced begging and internal trafficking are adequately addressed by the national anti-trafficking policy;**
- **take measures to identify the scale of trafficking of foreign nationals and to provide such victims of THB with assistance in accordance with the Convention.**

ii. Training of relevant professionals

75. Considerable efforts have been made in “the former Yugoslav Republic of Macedonia” by the national authorities, NGOs and intergovernmental organisations to provide training to relevant professionals on issues relating to THB. The National Action Plan for 2013-2016 contains activities related to capacity building and training of all actors involved in identifying victims of THB and providing assistance to them.

76. Within the EU-financed project “Technical assistance for strengthening the capacities of relevant parties involved in the fight against organised crime, with special focus on trafficking in human beings”,²⁸ IOM Skopje in co-operation with the Ministry of the Interior and the Ministry of Labour and Social Policy organised from July 2009 to December 2010 eight training sessions entitled “Basics of trafficking in human beings and smuggling of migrants” for a total of 276 police officers, six specialised/advanced training sessions for 166 professionals, and four three-day trainings for 76 representatives of relevant governmental institutions and civil society for strengthening the integrated approach in identification and protection of victims of THB. Furthermore, 2 600 copies of CDs with relevant national and international documents on THB (including the Council of Europe Convention) were distributed to relevant professionals. In addition, IOM supported the organisation of study visits to Romania and the Netherlands for staff of the Centre for victims of trafficking.

77. In the period 2009-2011, the Academy for Judges and Public Prosecutors conducted five specialised trainings on the topic of human trafficking, attended by a total of 112 professionals from the Ministry of the Interior, the Ministry of Justice, judges, public prosecutors, lawyers and representatives of the Customs Administration. In January 2012, a training session on THB, people smuggling and trafficking in organs was organised for 40 participants (including judges, prosecutors and police officers). In February 2013, a TAIEX workshop on THB and people smuggling was attended by 42 judges and 26 prosecutors. Further, in April 2013, a seminar for 20 judges and 13 prosecutors was organised on crimes against humanity and international law, with a special focus on THB and people smuggling.

78. According to information provided by the Ministry of the Interior's Sector for Border Affairs, 127 border police officers were trained on THB in 2012 and 96 in 2013. The topics involved gathering evidence and interviewing possible victims.

79. For the first time in April 2013, a two-day seminar on THB was organised for health care staff (two groups of 25 persons each). The Ministry of Health intends to organise such seminars twice a year. It is also planned to distribute flyers to health professionals to raise their awareness of THB. Further, as part of the National Action Plan for 2013-2016, the Ministry of Education and Science is planning to provide one-day training sessions on THB to 120 teachers per year, in co-operation with NGOs.

80. The Macedonian authorities have indicated that the budget for the various training activities related to combating THB organised between 2009 and 2012 totalled 312 800 euros. In 2013, the training budget was approximately 15.6 million MKD (the equivalent of 253 000 euros).

81. The NGO Open Gate/La Strada has organised a number of training activities over the years. By way of example, in April 2009, a training session was held for 14 journalists from the printed and electronic media on the topic “Role of journalists in the prevention of THB”. In September 2009, training on assistance for child victims of trafficking was provided to 20 social workers and staff working with homeless children. In 2010 Open Gate conducted debating forums with the local community in 10 different towns. The aim was to increase the awareness of the local self-government and decision makers with regard to THB, to improve co-operation and communication between responsible persons and institutions at local level, and to develop local action plan for combating THB. Further, in October 2011 Open Gate organised a one-day workshop for developing local action plans for prevention of trafficking in human beings as part of the project “Local response to trafficking in human beings”. In January and June 2011 two workshops were held for members of the Union of Independent and Autonomous Trade Unions (UNASM) with special emphasis on labour exploitation. In November 2011 Open Gate conducted a one-day training on prevention of THB for professionals from primary schools in two municipalities (Kisela Voda and Aeordrom).

²⁸

The total budget of this technical assistance project was 299 942 euros.

82. A number of manuals have been published in recent years with a view to strengthening the capacity of different professionals involved in action against human trafficking. Reference can be made to the “Handbook for early detention of cases of THB and smuggling of people for basic level police officers” (published in 2010 by IOM and Ministry of the Interior), the “Handbook for early detention of cases of THB for labour inspectors” (published in 2010 by IOM, Ministry of Labour and Social Policy and State Labour Inspectorate), the “Handbook for the identification and direct assistance of victims of THB and groups at risk” (published in 2012 by the NGO “Equal Access” with the support of GIZ), and the “Manual of good practices against human trafficking (published in 2009 by the Ariadne Network, Hellenic Aid, La Strada, and the Norwegian Ministry of Foreign Affairs).

83. GRETA welcomes the efforts made in “the former Yugoslav Republic of Macedonia” to provide training to a range of professionals involved in action against THB. However, GRETA notes that training activities have relied to a large extent on the availability of external financial resources. According to civil society actors, there is a need for additional training of social workers on the legislation and the rights and needs of victims of trafficking, as well as of labour inspectors on the detecting of human trafficking cases. In this context, GRETA notes that the National Action Plan for 2013-2016 envisages activities aimed at increasing the capacities of institutions responsible for preventing and detecting THB for labour exploitation. The knowledge and sensitivity of judges and prosecutors about human trafficking and the rights of victims also needs to be further developed.

84. GRETA invites the Macedonian authorities to continue improving the knowledge, awareness and sensitivity of relevant professionals (including police officers, social workers, labour inspectors, professionals working with children, medical staff, prosecutors, judges, trade union staff, journalists) about THB and the rights of victims. Future training programmes should be designed with a view to improving the knowledge and skills of relevant professionals which enable them to identify victims of trafficking, to assist and protect them, to facilitate compensation for victims and to secure convictions of traffickers.

iii. Data collection and research

85. 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 the main actors in the fight against trafficking. The collation of data from different state institutions and NGOs raises concerns about data protection, especially when personal data are involved. International standards have been set for the collection, storage, transfer, compilation and dissemination of data. In order to ensure full compliance with these standards, Parties are expected to apply appropriate measures and techniques of data protection. An additional requirement for human rights-based anti-trafficking policies is the conduct of research and analysis with special attention to the rights and interests of victims.

86. In “the former Yugoslav Republic of Macedonia”, the national contact point for data collection on THB from all relevant stakeholders is the National Rapporteur. For the purpose of data collection, a detailed form has been developed. All bodies covered by the Standard Operating Procedures for the treatment of victims of THB are asked to fill out the form and send it by electronic mail to the National Co-ordinator’s office. The form contains information about victims (age, sex, type of exploitation, nationality, place of exploitation, identification, referral, risk assessment, return, legal redress, etc.). The personal data of victims of THB is protected and can only be used in accordance with the Law on Protection of Personal Data.

87. GRETA notes with satisfaction the appointment of a National Rapporteur, which has the potential of improving the collection of data on THB in “the former Yugoslav Republic of Macedonia”. **GRETA invites the Macedonian authorities to continue developing the aspect of data collection on THB by compiling reliable statistical information from all main actors which allows disaggregation (concerning sex, age, type of exploitation, country of origin and/or destination, etc.). This should be accompanied by all the necessary measures to respect the right of data subjects to personal data protection, including when NGOs working with victims of trafficking are asked to provide information for the national database.**

88. As far as research related to human trafficking is concerned, several projects have been carried out in recent years by public bodies, NGOs and international organisations. In 2011, three studies were prepared by the Ministry of Labour and Social Policy: “National programmes and benefits within the social protection system in the Republic of Macedonia”, “International legal framework and poverty laws in the Republic of Macedonia with a special emphasis on trafficking in human beings”, and “Evaluation of vulnerable groups from the aspect of poverty with emphasis of trafficking in human beings”. Further, a national study on labour exploitation in the period 2009-2011 was conducted in the framework of an EU Project “Integrated Approach in Prevention of Labour Exploitation in Origin and Destination Countries”.

89. In October 2012 the NGO Open Gate/La Strada published research on the social integration of victims of trafficking (based on 81 victims who benefitted from the social assistance programme operated by Open Gate from 2005 to 2011).²⁹ This research was financed by the King Baudouin Foundation and GIZ. In 2008, the NGO “Equal Access” published a study of the regulatory framework for issuing temporary residence and work permits of foreign victims of THB.³⁰ Reference has already been made in paragraph 70 to the study conducted by the NGO “For Happy Childhood” on internal trafficking in “the former Yugoslav Republic of Macedonia” in 2006.

90. **GRETA considers that the Macedonian authorities should conduct and support research on THB-related issues as an important source of information for the evaluation of current programmes and for planning future policy measures. Areas where more research is needed in order to shed light on the extent and trends of human trafficking in the country and inform policy makers include trafficking for the purpose of labour exploitation, trafficking for the purpose of forced begging and internal trafficking.**

iv. International co-operation

91. 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).

92. In “the former Yugoslav Republic of Macedonia”, co-operation with other countries in combating human trafficking is based on the Law on International Legal Assistance in Criminal Matters³¹, the Criminal Procedure Law, international treaties to which the country is a Party and relevant bilateral agreements.

²⁹ Open Gate/La Strada, *From Secure Accommodation to Social Inclusion of Victims of Trafficking in Human Beings*, 2012.

³⁰ Equal Access, *Analysis of the regulatory framework for issuing temporary residence and work permits to foreign citizens victims of trafficking in human beings in the Republic of Macedonia*, 2008.

³¹ Official Gazette of the Republic of Macedonia No. 124 of 20.09.2010.

93. Pursuant to Article 15 of the Law on International Legal Assistance in Criminal Matters, international legal assistance covers: procedural actions, such as delivering evidence and records related to the criminal procedure in the requesting country, sending spontaneous information, exchange of specific information and notifications, temporary transfer of persons deprived of freedom, cross-border surveillance, controlled delivery, use of undercover agents, joint investigation teams, interception of communication, interviewing by video or telephone conference, search of premises and persons, temporary securing of records, property or funds related the criminal acts, temporary freezing, seizure or holding of funds, bank accounts and financial transactions or proceeds of crime, confiscation of property or property benefit, seizure of records, protection of personal data, criminal and civil liability of officials and delivery of criminal records certificates.

94. "The former Yugoslav Republic of Macedonia" has ratified the Police Co-operation Convention of South-Eastern Europe and is a member of the South-East European Law Enforcement Centre (SELEC Centre) in Bucharest with detached liaison officers from the Ministry of the Interior and the Custom Administration. Further, "the former Yugoslav Republic of Macedonia" has signed a Strategic and Operational Co-operation Agreement with Europol in 2012 and participates in the joint analytical work files AWF. These measures are strengthened through co-operation with Interpol, Frontex and foreign police liaison officers in Skopje.

95. Bilateral agreements on cross-border co-operation and co-operation in the fight against organised crime, terrorism, drug trafficking, illegal migration and other relevant crimes have been concluded with Albania, Bulgaria, Croatia, Montenegro, Romania and Slovenia. Further, "the former Yugoslav Republic of Macedonia" has signed an agreement with France on co-operation in the area of internal security, an agreement with Switzerland on police co-operation in the fight against crime, and a protocol on co-operation in the area of security with the Ministry of the Interior of Turkey.

96. All agreements on police cooperation enable the exchange of information and the conduct of joint investigations. Within the Centre for suppression of organised and serious crime, there is a specialised Department for criminal intelligence tasked to work with informants. In case of receiving intelligence on committed criminal acts and perpetrators related to another country, the information is immediately delivered through the Interpol National Central Bureau in Skopje to the country concerned. Police attachés are also used for exchange of information, as well as the SELEC Centre in Bucharest. With the countries with which "the former Yugoslav Republic of Macedonia" has signed bilateral agreements for police co-operation, the exchange of information goes directly through the specified national contact points.

97. GRETA was informed that a number of successful joint investigations had been carried out with countries in South East Europe as well as with other European countries (Germany, the Netherlands and Switzerland). There have been also a number of parallel investigations. According to public officials met during the evaluation visit, international co-operation related to action against human trafficking, in particular with neighbouring countries, is very good.

98. "The former Yugoslav Republic of Macedonia" also participates actively in the network of National Co-ordinators for South-East Europe, which brings together Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Montenegro, Romania, Serbia and Slovenia.

99. **GRETA welcomes the efforts of the Macedonian authorities in the area of international co-operation and invites them to continue developing international co-operation with a view to combating THB and providing assistance to victims.**

2. Implementation by “the former Yugoslav Republic of Macedonia” of measures aimed at preventing trafficking in human beings

100. 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

101. A range of measures have been taken by the Macedonian authorities, in co-operation with NGOs and intergovernmental organisations, to raise awareness about THB among the general public as well as among specific groups targeted because of their vulnerability to human trafficking.

102. In 2011 the Ministry of Labour and Social Policy, in co-operation with the Equal Opportunities Committee of the municipality of Gyorce Petrov, conducted preventive workshops in four primary schools and one pre-school facility involving 29 teachers and 831 students of seventh and eighth grade. There was a public debate held with representatives of local institutions and the police and information materials on THB were distributed. The Ministry has signed a Memorandum of Co-operation with GIZ for the implementation of the regional “Programme for fight against trafficking in human beings and social protection” which has duration of five years. As part of this programme a bulletin is published with the aim of improving the information, co-operation and coordination with social work centres and other institutions.

103. In December 2010, the NGO Open Gate/La Strada signed a Memorandum of Co-operation with the Ministry of Education and Science aimed at awareness raising and prevention of THB. However, the Memorandum did not have any financial implications and none of the prevention activities were covered by the Ministry.

104. When conducting preventive activities, Open Gate/La Strada is in constant contact with young people and adapts the programmes and materials to the target group. It also tries to support, encourage and motivate young people to act as volunteers. The activities involve direct work with children at risk by visiting schools, orphanages and universities, holding preventive workshops, staging forum theatres, organising peer education and distributing preventive educational materials. Counselling, information and support are also provided through the SOS line for THB victims which is available 12 hours a day. Additionally, Open Gate/La Strada has a web page and a quarterly e-newspaper.

105. In the course of 2010 Open Gate/La Strada conducted 10 one-day training sessions entitled “Joined in the struggle against trafficking in human beings” in Tetovo, Struga, Strumica, Sveti Nikole, Bitola, Delchevo, Kichevo, Skopje, Kumanovo and Mavrovo-Rostushe. The training covered 213 students who subsequently acted as peer educators. The workshops were designed taking into account the age and target group and used various techniques, group and individual work and different drills through role play and drama. The peer educators carried out independently 32 prevention activities in primary and secondary schools, which were attended by 790 young people. Some 3 200 leaflets concerning THB were disseminated.

106. Also in 2010, a series of forum theatres was organised in several secondary schools in Skopje, as well as in institutions dealing with street children, children from orphanages, abandoned children, etc. The actors were a group of 12 young people aged 14 to 18 from an orphanage. This activity reached out to a total of 245 children aged 10-18.

107. In 2011 the Open Gate/La Strada conducted two national awareness-raising campaigns on THB. The first one was conducted on the occasion of the European Anti-Trafficking Day (18 October) and the second one on the occasion of the week of the fight against THB (2-9 December). Both campaigns were supported by the National Commission and the Ministry of the Interior. The campaigns were conducted in 10 towns (Skopje, Kumanovo, Sveti Nikole, Delcevo, Strumica, Bitola, Reka region, Tetovo, Kicevo and Struga) and the activities were intended for different target groups in order to raise awareness of THB issues among young people, the general public and professionals. It is estimated that more than 10 000 persons were reached by the campaigns. Further, on the occasion of the European Anti-Trafficking Day, Open Gate published a statement signed and supported by members of the National Network for Fight against THB *Budnost* (Awareness) in the daily newspaper *Dnevnik*. As part of the second campaign, Open Gate in co-operation with the *Budnost* network organised 17 preventive lessons, 14 forum theatres and one art and literature competition in 15 primary and secondary schools in nine towns. At the same time, round tables and debating forums were held in seven towns with the participation of more than 140 representatives of the local self-government, police, social workers, NGOs, labour inspectors, journalists, etc.

108. In the period 2009-2011, by holding preventive workshops and trainings, Open Gate/La Strada educated over 4 000 high-school students, 1 500 primary school children, 60 high-school professors, 60 special educators and around 80 primary school teachers. In the same period, Open Gate printed more than 40 000 information materials for various target groups. By way of example, it produced the brochures "Small manual for big decisions" (for children aged 12-18) and "What is trafficking in human beings – think right, inform on time", a comics brochure designed primarily for Roma children and a short film "You are alive" intended to raise public awareness of THB, especially among the young population. The information materials disseminate information on the SOS-help line for victims of THB and are available in Macedonian, Albanian and Romani. Other awareness-raising materials have included posters, bookmarks, notebooks, pens, key pendants, caps, calendars, small sugar packs.

109. As regards THB for labour exploitation, in 2013 the Ministry of the Interior, together with the Employment Agency, conducted a campaign under the motto "Jobs are a right, labour exploitation is a crime". The aim of the campaign was to raise public awareness, especially of unemployed persons, of the threats posed by labour exploitation and how to recognise it. Two workshops were organised and around 300 contacts were made with unemployed people aged 18-40. Further, the organisers distributed 990 posters, 990 brochures and 990 USBs with the motto of the campaign. Also in 2013, the Ministry of Labour and Social Policy supported a campaign in the framework of the programme implemented by GIZ under the motto "Cut the string of labour exploitation and trafficking in children in Macedonia", aimed at preventing trafficking in children for the purposes of labour exploitation and begging.³² The campaign involved pantomime performances in Debar, Probishtip and Skopje on 18 October and events during the week dedicated to the fight against THB (2-9 December 2013). The National Commission and NGOs were also involved.

110. Further, a special leaflet with information of THB and forced labour has been issued by Open Gate/La Strada and the Trade Unions. It includes the number of the SOS-Helpline operated by Open Gate, the Labour Inspectorate and the Trade Union.

111. GRETA welcomes the efforts made in "the former Yugoslav Republic of Macedonia" to improve the prevention of human trafficking through a variety of awareness-raising measures, education in schools and special actions targeted at vulnerable groups. As far as GRETA knows, the impact of these measures has not been assessed. **GRETA considers that future awareness-raising measures should be designed in the light of the assessment of previous measures and be focused on the needs identified. Awareness raising should continue targeting vulnerable groups and inform the general public of forms of THB which are on the rise, such as labour exploitation, forced begging, forced commission of criminal offences and trafficking within the country.**

³² Links containing information on the campaign:
<http://www.cira.org.mk/index.php/mk/cira-in-the-news-mk/1560-2013-12-03-12-08-42>
<http://donate.org.mk/index.php/mk/donate-mk/campaigns/132-presecete-gi-koncite>

b. Measures to discourage demand

112. In accordance with the Convention, measures to discourage demand for the services of victims of trafficking, especially women and children, should be understood as a positive obligation on Parties to adopt and reinforce such measures as regards THB for the purpose of any form of exploitation (see paragraph 108 of the Explanatory Report of the Convention). As it is stated in the Recommended Principles and Guidelines on Human Rights and Human Trafficking, strategies aimed at preventing THB shall address demand as a root cause of trafficking.³³

113. As a measure to reduce demand for sexual services from victims of THB, the Criminal Code was amended in 2008 to include the criminalisation of the use of sexual services with the knowledge that the person is a victim of trafficking. Subsequently, with a view to complying with Article 19 of the Convention, this provision was extended to cover other forms of exploitation. At present, Article 418-a, paragraph 3, of the CC reads as follows: “a person who uses or enables another person to use sexual services from, or another type of exploitation of, persons with regard to whom he knew or ought to have known that they were victims of human trafficking shall be punished with imprisonment for a term from six months to five years.”³⁴ In the case of children the same act is punished by imprisonment of at least eight years (Article 418-d, paragraph 3, of the CC).

114. In December 2011, IOM in co-operation with the National Commission and supported by the Embassy of Sweden and the Swedish Institute, organised a regional conference on the topic of targeting demand as a tool for combating human trafficking. The conference was attended by 80 experts and practitioners from Macedonia, Albania and Kosovo who discussed the experience, policies and practices in the region and the “Swedish model”.

115. GRETA invites the Macedonian authorities to continue their efforts to discourage demand for the services of trafficked persons, for all forms in exploitation, in partnership with the private sector and civil society.

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

116. The Operational Plan on Active Employment Programmes and Measures adopted by the Government of “the former Yugoslav Republic of Macedonia” for the period 2012-2013 does not mention victims of THB as a specific target group, but refers to persons and groups who may be vulnerable to THB, such as young unemployed persons, unemployed women, long-term unemployed, Roma, parents of street children, parentless children, single mothers and victims of family violence. The plan foresees a number of measures, such as a self-employment programme, a pilot programme for subsidised agriculture, an apprenticeship programme, a programme for socially useful work, etc. The budget means foreseen for the implementation of the Operational Plan in 2012 amounted to 8 million euros.

117. The Roma community in “the former Yugoslav Republic of Macedonia” is recognised as being at risk of human trafficking. Considerable efforts are made by the authorities, NGOs and international organisations vis-à-vis the Roma with a view to involving all children in primary schools, combating school drop-out and fostering the enrolment of Roma children in secondary schools and colleges.

³³ Principle 4 of Addendum to the report of the United Nations High Commissioner for Human Rights (E/2002/68/Add. 1), <http://www.ohchr.org/Documents/Publications/Traffickingen.pdf>

³⁴ Unofficial translation provided by the Macedonian authorities.

118. An issue increasing the vulnerability of Roma to human trafficking is the lack of registration at birth and the absence of personal documents. For the purpose of issuing birth certificates to unregistered children and thus enabling their access to the social protection and health care systems, an operative working group has been formed including representatives from the Ministries of Labour and Social Policy, the Interior and Justice, as well as the Birth Registry Administration and Roma NGOs. The group reviews the lists of unregistered children submitted by social workers and inscribes them in the birth certificates registry. GRETA was informed that the registration procedure is lengthy and expensive (with DNA tests being required to establish the parents of unregistered children) and that the costs are often borne by NGOs. Additional complications arise when the children and their parents were born in Kosovo*, and therefore there is a need for regional co-operation in this area.

119. According to UNICEF, there are some 1 000 “children on the street”, 95% of whom are Roma. The Ministry of Labour and Social Policy and the Ministry of the Interior conduct joint field activities aimed at combating the phenomenon of street children (i.e. children who alone or with their parents spend most of the time in the streets begging, selling illegal products, collecting scrap metal, etc.). For example, in the course of 2011, a total of 81 street children were recorded in the cities of Skopje, Bitola, Prilep, Kumanovo, Ohrid and Tetovo; 18 of these children were returned to regular education and in respect of the others a procedure was initiated for their inclusion in schools. Measures were taken in respect of some of the parents (e.g. monitoring or removal of parental rights). As already mentioned, the parents of street children have been included in the active measures for employment in 2012-2013.

120. The Ministry of Labour and Social Policy has opened two day centres for street children on the territory of Skopje (in the neighbourhoods of Kisela Voda and Avtokomanda) and one in the municipality of Bitola. The Ministry estimates that there are around 600 street children in Skopje. Further, in 2011 the Ministry opened a round-the-clock transit centre for street children in Skopje and was planning to open a similar transit centre in the municipality of Ohrid where many children arrive in the summer months to beg. For the functioning of the centres for street children the Ministry of Labour and Social Policy has provided around 1 million euros.

121. The GRETA delegation visited the day centre for street children in Skopje’s neighbourhood of Kisela Voda. It has a capacity of 20 places and there were 12 children aged 4-14 present on the day of the visit. The day centre offers very good material conditions and the children are provided with food and clothes, helped to acquire proper hygiene, taught basic learning skills and included in the regular educational process. The children’s families are monitored by social workers and steps may be taken to place a child with foster parents should this be considered necessary. Unregistered children are helped to get registered.

122. Reference should also be made to the activities of NGOs and international organisations aimed at decreasing the vulnerability of certain groups to THB and preventing repeated victimisation. By way of example, IOM Skopje has run several projects aimed at preventing THB in the Roma community. In 2009-2010 the project entitled “Institutional building and direct labour promotion measures to prevent irregular migration and human trafficking among young Roma in Skopje and Tetovo” had 75 direct beneficiaries aged 18 to 30 who were provided with vocational training courses and employment mediation, as well as a number of indirect beneficiaries dealing with Roma issues. The project, financed by Norway, supported the Government’s actions as defined in the National Action Plan for the Decade of Roma Inclusion (2005-2015) and the National Strategy for Roma (2005). The NGO Open Gate/La Strada has organised vocational training, computer literacy courses, foreign language courses and preparation of job applications for vulnerable groups. Further, an information leaflet entitled “The abuse of street children is my, your, our problem”, raising awareness of the problem of street children and what every citizen can do to help, has been issued by Open Gate with the support of the OSCE Mission in Skopje. The OSCE Mission has also been involved in a pilot project for social outreach work concerning street children.

123. **GRETA welcomes the measures taken by the Macedonian authorities vis-à-vis groups vulnerable to THB and considers that the authorities should continue to develop the aspect of prevention through social and economic empowerment measures.**

124. **Further, GRETA urges the Macedonian authorities to take steps to secure the registration of all persons, both as a prevention measure and in order to avoid re-trafficking. If necessary, the relevant legislation should be amended to facilitate the process of registration.**

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

125. The control and security of the borders of “the former Yugoslav Republic of Macedonia” are the responsibility of the Sector for Border Affairs of the Ministry of the Interior. Within each of the four regional Centres for Border Affairs (towards the four neighbouring countries) there is a Section for Illegal Migration and Cross-border Crime responsible for conducting investigations, including into THB offences. The Border Police co-operates with the Unit against THB and Smuggling of Migrants through information exchange and joint investigations. Border police officers are trained in the early detection of victims of traffickers, their profiling at border crossing points and the measures to be taken. Several manuals have been issued with indicators and instructions on how to act in such cases.

126. Bilateral agreements for joint border patrols have been concluded with all countries with which “the former Yugoslav Republic of Macedonia” shares a common border except for Greece. These agreements do not contain special prevention measures concerning THB, but there are general measures for the prevention of cross-border crime which are relevant to THB.

127. In accordance with Article 37 of the Law on Foreigners, the competent bodies to issue visas for entry into “the former Yugoslav Republic of Macedonia” are the country’s diplomatic and consular missions abroad. An exception to this rule is provided under Article 36 of the Law on Foreigners, whereby transit and short-term visas with the right to reside in the country for up to 15 days may exceptionally be issued at a border crossing point. The diplomatic and consular missions and police services at border crossing points have been instructed not to issue a visa or else to reject entry into “the former Yugoslav Republic of Macedonia” if there are grounds to suspect that the person is a potential trafficker or potential victim of THB, and to immediately inform the Ministry of the Interior. The visa regime has been harmonised with the Schengen rules and there is a computerised system for automatic detection of errors in documents. No visas are required from citizens of Russia, Ukraine and neighbouring countries such as Bulgaria, Albania and Greece.

128. The Ministry of Foreign Affairs via its 46 diplomatic and consular missions abroad provides information to interested persons concerning the lawful entry and stay in “the former Yugoslav Republic of Macedonia”, through websites and on the phone. The Visa Centre of the Ministry of Foreign Affairs, which was set up in 2009, is connected to all diplomatic and consular missions of “the former Yugoslav Republic of Macedonia” and all border crossing points along the country’s border.

129. **GRETA welcomes the measures taken by the Macedonian authorities and considers that the authorities should make further efforts to:**

- **detect cases of THB in the context of border control;**
- **introduce a checklist to identify potential THB-related risks during the visa application system.**

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

130. In “the former Yugoslav Republic of Macedonia” travel documents are produced in accordance with ICAO 9303 standards and EU recommendations. The Ministry of the Interior is currently issuing personal documents with a high level of security (second generation electronic passport with a chip containing fingerprint, in addition to photograph and signature). Due to the increased number of applicants for biometric personal documents the Ministry has acquired one additional machine for issuing such documents. Moreover, all diplomatic and consular missions of “the former Yugoslav Republic of Macedonia” abroad have been provided with mobile base stations which allow Macedonian citizens living abroad to apply for biometric travel documents.

131. In accordance with the Law on Travel Documents, the deadline for replacement of the old passports expired on 27 February 2012. Beyond this date all citizens of “the former Yugoslav Republic of Macedonia” who intend to travel abroad must be in possession of biometric travel documents. The number of personal documents issued according to the new standards in the period from April 2007 to March 2012 was 1 398 280 travel documents (272 633 from the second generation), 1 517 873 IDs and 439 548 driving licenses. As of 31 December 2012, all old documents (travel documents, IDs and driving licenses) ceased to be valid and only biometric personal documents are used.

3. Implementation by “the former Yugoslav Republic of Macedonia” of measures to protect and promote the rights of victims of trafficking in human beings

a. Identification of victims of trafficking in human beings

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

133. The Standard Operating Procedures for the treatment of victims of THB prescribe the roles and responsibilities of different actors during the identification process. The identification starts from the moment of obtaining information about, or making the first contact with, a possible victim. This can take place in various ways: through the activities of the police, social work centres, labour inspectors, prosecutors, health institutions, schools, embassies, NGOs or via direct contact with the person. The identification is performed through an interview carried out by representatives of the Unit against THB and Smuggling of Migrants and/or the Office of the National Referral Mechanism, which operates a network of trained social workers throughout the country (two per social work centre). According to the Standard Operating Procedures, the interview should take place when the presumed victim feels prepared and consents to the interview, but before the end of the recovery and reflection period. An interview should not be conducted if the person is upset, anxious or aggressive, needs medical care, requests legal advice, does not understand the interviewer, refuses to talk or is a child and no parent or responsible adult (guardian or social worker) is present.

134. The Standard Operating Procedures indicate that the purpose of identification is twofold: to establish the elements of the crime of THB, taking into account the definition in the Criminal Code, and to support the victim to access relevant services in the quickest and most adequate way. A person in charge is assigned to each presumed victim: an official from the Office of the NRM in respect of domestic victims of THB and a police officer from the Unit against THB and Smuggling of Migrants in respect of foreign victims. The Unit against THB and Smuggling of Migrants must inform the Office of the NRM, which is responsible for the organisation of assistance and protection, of all cases of presumed victims. Social workers throughout the country who may come across presumed or potential victims of trafficking in the discharge of their duties must also inform the Office of the NRM. It is sufficient for a person to be identified as a victim of THB by a trained social worker, without the involvement of the police, in order to benefit from social protection and assistance.

135. General indicators for the identification of victims of trafficking have been provided to police officers in the “Handbook for the early detection of cases of THB and smuggling of migrants for basic level police officers” referred to in paragraph 82. Further, the Ministry of the Interior adopted in October 2013 a manual for police officers containing guidelines on how to act in cases of THB. The “Handbook for the identification and direct assistance of victims of THB and groups at risk” referred to in paragraph 82 also provides a list of identification indicators.

136. According to the Standard Operating Procedures, presumed victims are to be provided with preliminary information (orally and in writing) about their immediate needs, personal safety and available services, as well as with information following identification about their rights and obligations. This information is provided by the person in charge of the case.

137. As noted in paragraph 36, since 2012, the NGO “Equal Access” has run a project entitled “Providing support and services for victims of THB and vulnerable groups at local level” in three regions (Bitola, Gostivar and Kumanovo). The project involves six mobile teams composed of two NGO representatives and two social workers who proactively detect victims of THB and offer them reintegration services. The members of the mobile teams were trained before starting field work. The mobile teams co-operate closely with the police. If a mobile team member detects a victim, the person is either referred to the State shelter or accommodated in private housing where services are provided. In 2012, 22 presumed victims and 10 potential victims of trafficking (i.e. vulnerable persons at risk of being exploited by traffickers) were identified as part of this project. However, only four of these persons were recognised as victims of trafficking by the competent authorities. The mobile teams are mentioned in the National Action Plan 2013-2015, but apparently no funding is secured (the project has been financed by foreign donors).

138. Concerning THB for labour exploitation, pursuant to the Law on Labour Inspection, the powers of labour inspectors entitle them to enter at any moment the premises, to examine all rooms and check if the persons present have contracts. All economic sectors can be inspected, including agriculture, cleaning services, forestry and construction. However, labour inspectors have no powers to check non-registered businesses and private homes, and GRETA’s attention was drawn to cases of trafficking for labour exploitation in seasonal work. Labour inspectors sometimes carry out joint actions with the police (e.g. in a restaurant employing foreign waitresses in Gostivar). A pilot project run by the Trade Unions aims at improving the detection of labour exploitation cases by mobile teams (see paragraph 38). Some training on THB was provided in 2012 to labour inspectors, but there is scope for further involving the Labour Inspectorate in the proactive identification of human trafficking cases. GRETA stresses the importance of including the Labour Inspectorate in the Standard Operating Procedures.

139. If a presumed child victim of trafficking is detected, the social work centre should be contacted in order to take care of the protection of the rights and safety of the child and appoint a guardian. The Law on the Family contains a chapter on the guardianship of child victims of THB (Chapter V-a). The appointed guardian should be a person trained to work with children, who acts in the best interests of the child and takes care of the child's health, education and protection. The social work centre is responsible for assessing the child's family circumstances and, if necessary, the court should be seized in order to take measures in respect of the parents (e.g. limitation or removal of parental rights). However, the procedure for removing parental custody is reportedly difficult and there is a problem of finding foster families.

140. GRETA is concerned by information about local police officers reportedly performing raids on restaurants, clubs and bars, finding foreign women residing illegally in the country working there as singers and deporting them without contacting the Unit against THB and Smuggling of Migrants and/or the social work centre in order to perform verification of a possible trafficking situation.

141. In recent years, there has been an increase in the number of irregular migrants arriving in "the former Yugoslav Republic of Macedonia". According to information in the 2012 report on the National Commission, 680 irregular migrants were detected by the police in 2012. There were 750 asylum applications in 2011; some 90% of the asylum seekers left "the former Yugoslav Republic of Macedonia" two to three weeks after seeking asylum.

142. GRETA was informed that there were 40 unaccompanied minors arriving in "the former Yugoslav Republic of Macedonia" in 2012. The majority of the unaccompanied minors seek asylum, but leave "the former Yugoslav Republic of Macedonia" soon after that for EU countries. According to the Macedonian authorities, all unaccompanied minors are assigned a guardian by the social work centres. In 2013, guardians were appointed for 68 children out of a total of 80 unaccompanied foreign minors accommodated in the holding centre for foreigners in Skopje.

143. The Macedonian authorities have indicated that regardless of whether a Macedonian citizen was identified abroad and repatriated to in "the former Yugoslav Republic of Macedonia" or a foreigner with residence in "the former Yugoslav Republic of Macedonia" was identified in another country, the status of victim of THB is valid in "the former Yugoslav Republic of Macedonia" and the person will be offered access to the assistance programme.

144. GRETA welcomes the fact that identification of victims of trafficking among Macedonian nationals follows a multi-disciplinary approach involving social workers and police officers. At the same time, GRETA notes that specialised NGOs can substantially contribute to the victim identification process and should be involved in a multi-agency effort to ensure that no victim of trafficking remains unidentified. This is envisaged by Article 10 of the Convention, according to which identification is a collaborative process between the authorities and relevant victim support organisations.

145. **GRETA urges the Macedonian authorities to take further steps to ensure that all victims of trafficking are properly identified and can benefit from all the assistance and protection measures provided for under the Convention. To this end, the authorities should:**

- **promote multi-agency involvement in victim identification by formalising the role and input of specialised NGOs and involving other relevant actors, such as labour inspectors;**
- **strengthen the capacity of the existing network of social workers to proactively identify victims of trafficking;**
- **pursue a proactive approach to the identification of victims of trafficking for the purpose of labour exploitation by expanding the powers of labour inspectors to also cover non-registered businesses and private homes and encouraging labour inspections in sectors most at risk (e.g. agriculture, entertainment, service sector, construction, domestic work);**
- **pay more attention to the identification of victims of trafficking among irregular migrants, asylum seekers and unaccompanied foreign minors and provide additional training to staff who come in contact with such persons.**

b. Assistance to victims

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

147. In "the former Yugoslav Republic of Macedonia", the 2009 Law on Social Protection (Article 31) provides for the right of victims of THB to receive assistance and protection in a centre (shelter) for victims of THB. Articles 132 and 145 of this law provide for the setting up of a centre for victims of THB where victims can stay up to six months and be provided with accommodation, food, protection and daily activities. The security of the centre is the responsibility of the Ministry of the Interior.

148. The assistance and protection of victims of THB is provided by the Ministry of Labour and Social Policy, and more precisely by the Office of the NRM, in collaboration with social work centres and NGOs. A State-funded centre (shelter) for victims of human trafficking was put in place in January 2011. The shelter was originally managed by the NGO Open Gate/La Strada and financed by foreign donors. Currently, the Ministry of Labour and Social Policy covers the shelter's running costs (rent and bills). Memoranda of Co-operation have been signed between the Ministry of Labour and Social Police and, on the one hand, the NGO Open Gate/La Strada (for the provision of medical and legal assistance to victims at the shelter) and, on the other hand, with the NGO "For Happy Childhood" (for the provision of psychological assistance to victims). GRETA was informed that the public funding available for the shelter was rather limited (5 000 euros per year) and not sufficient to cover all the needs. Reference is also made to paragraph 34 concerning the need to renew the Memorandum of Co-operation with Open Gate/La Strada.

149. The GRETA delegation visited the shelter for victims of THB in Skopje which is located in a flat and has a capacity of six places (which can be increased to 10 in case of need, but usually not more than three people stay at the shelter at any given time). GRETA was informed that 10 persons were accommodated in 2011 and seven in 2012. The youngest person was 14 and the oldest 23. The shelter can accommodate women, men and children. In 2012, for the first time, two men were accommodated in it. Placement in the shelter requires the informed consent of the victim (who signs a declaration) and the same applies to discharge from the shelter (which also requires that the victim sign a declaration that he/she will observe the secrecy of the shelter's location).

150. The shelter offers adequate material conditions (two bedrooms, a spacious living room, a kitchen, sanitary facilities, rooms for staff). A total of seven persons, including social workers, pedagogues and a psychologist, work at the shelter in shifts, ensuring round-the-clock presence. Most of these persons are volunteers engaged by the two above-mentioned NGOs. Victims cook for themselves, can leave the shelter accompanied and are offered individual psychotherapy and some activities (art work, cinema). If necessary, the six-month stay provided for in law can be extended.

151. According to NGOs, only victims of trafficking recognised as such by the authorities can be placed in the State shelter and it would appear that the victim's co-operation in the opening of a criminal case is a pre-condition for placement. Those who do not meet the conditions for State support are assisted by NGOs at the local level. Further, GRETA questions the appropriateness of accommodating in the same shelter all categories of victims (women, men and children) who may have different needs. In their comments to the draft GRETA report, the Macedonian authorities have indicated that accommodation in the State shelter is not conditional on the victim's co-operation with the investigation/prosecution and many of the victims were identified and referred by social work centres without being identified by the Ministry of the Interior.

152. Victims of THB are among the categories of people entitled to free legal assistance under Article 8 of the Law on Free Legal Assistance. Pursuant to Article 6 of this law, free legal assistance is provided both before and during court and administrative proceedings. In order for a person to qualify for free legal assistance, proof of the means of his/her family should be provided. The Ministry of Justice decides whether a submitted request for free legal assistance is to be granted. However, GRETA was informed by NGOs that, in practice, the provision of legal assistance to victims of THB depends on NGOs who engage lawyers (see paragraph 174).

153. At the time of GRETA's visit, victims of trafficking who did not have health insurance in "the former Yugoslav Republic of Macedonia" had no access to public health care (including emergency care). After the evaluation visit, GRETA was informed that Article 84 of the Law on Social Protection has been amended in order to include victims of THB among the categories of persons entitled to health protection if they cannot receive health insurance on other grounds. **GRETA welcomes this development and encourages the Macedonian authorities to guarantee access to health care for victims of trafficking.**

154. A leaflet on the rights of victims of THB has been issued by the NGO Open Gate/La Strada (with funding from the European Union). It contains information on the right to private life, physical protection, legal assistance, accommodation, medical assistance, psychological assistance, interpretation, reintegration and re-socialisation.

155. The GRETA delegation also visited a holding centre for foreigners, which holds various categories of persons whose stay in the country is irregular, including victims of trafficking until they are issued a residence permit which allows them to move to the shelter (in practice, this can take up to a month). The holding centre is effectively a detention facility and is not an appropriate environment for victims of trafficking on a number of accounts (lack of privacy, enforced confinement, difficulty in applying a personalised approach, inadequate material conditions). The Macedonian authorities have stressed that if a suspicion of trafficking is confirmed, the foreign national would be immediately transferred to the State-run shelter for victims of THB.

156. While commending the setting up of the Office of the NRM and the State shelter for victims of THB, **GRETA urges the Macedonian authorities to strengthen their efforts to provide assistance to victims of trafficking, 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;**
- **provide suitable accommodation is provided to child and male victims of trafficking and make sure that they can fully benefit from the assistance measures provided for in law;**
- **ensure that presumed foreign victims of trafficking are moved to the State shelter for victims of THB as soon as there are reasonable grounds to believe that they are victims of trafficking, without waiting for a residence permit to be issued;**
- **facilitate the reintegration of victims of THB into society and avoid re-trafficking by providing them with long-term assistance, including vocational training and access to the labour market.**

c. Recovery and reflection period

157. As victims of trafficking are extremely vulnerable after the trauma they have experienced, Article 13 of the Convention introduces the obligation for Parties to provide in their internal law for a recovery and reflection period of at least 30 days. The recovery and reflection period, in itself, is not conditional on co-operation with the investigative or prosecution authorities and should not 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.

158. In “the former Yugoslav Republic of Macedonia”, the recovery and reflection period is regulated by Article 81 of the Law on Foreigners, which states: “a foreigner for whom there are grounds to suspect that he/she is a victim of the criminal offence “Trafficking in Human Beings” stipulated by the Criminal Code, is given a decision-making period of up to two months in order to provide him/her with protection, assist him/her to recover and escape the influence of the traffickers”. In the course of the decision-making period the foreign victim of THB must agree to co-operate with the competent authorities in the detection of the criminal offences or return to his/her country origin or legal residence. In the case of children, taking account of their best interests, the period may be extended. During the decision-making period, the foreigner cannot be expelled from the country.

159. The decision-making period may be terminated if the foreign victim of trafficking voluntarily, actively or upon his/her own initiative renews contacts with the suspected traffickers, or for reasons of public order and national security. The termination of the decision-making period is made by a decision of the Ministry of the Interior which can be appealed to the competent commission of the Government within a period of eight days from the date of receipt of the decision. The commission must take a decision within 30 days from the date of submission of the complaint. The commission’s decision can be appealed in court in accordance with the Law on Administrative Disputes. **GRETA would like to receive information about the “competent commission” which deals with complaints concerning the decision-making period.**

160. The decision-making period is also covered by the Standard Operating Procedures, which specify that both foreign and domestic victims are to be offered such a period. For domestic victims it lasts up to two months, counted from the day when the victim is placed in the shelter, and for foreign victims up to two months, counted from the initial referral. In the case of children the decision-making period may be extended. According to the Standard Operating Procedures, during the decision-making period victims are to be offered safe and appropriate accommodation, medical and psychological assistance, information, legal advice and access to education.

161. According to information provided by the Macedonian authorities, the number of victims of trafficking who were granted a decision-making period was two in 2011. In 2012 three victims of THB (two from Kosovo* and one from Bosnia and Herzegovina) were given approval for a decision-making period. As regards 2013, the Macedonian authorities have indicated that all 82 potential victims of THB received a decision-making period.

162. GRETA welcomes the provision in Macedonian law of a decision-making period longer than the minimum of 30 days envisaged under the Convention and the application of this period to both domestic and foreign victims of THB. However, GRETA stresses that the reasons listed in Article 13(3) of the Convention as justifying the non-observance of the recovery and reflection period do not include the re-establishment of contacts with the trafficker, but only grounds of public order or claiming victim status improperly.

163. **GRETA urges the Macedonian authorities to ensure that the decision-making period is not conditional on the victim's co-operation with the law enforcement authorities. Further, the authorities should ensure that no termination of the decision-making period is carried out on the grounds of the victim having "voluntarily, actively or upon his/her own initiative renewed contacts with the suspected traffickers" without due regard to the person's individual situation, which involves an examination of his/her case.**

d. Residence permits

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

165. Pursuant to Article 82 of the Law on Foreigners, upon the expiry of the decision-making period, a foreign victim of THB may be granted a temporary residence permit on the following conditions: his/her stay in the country is necessary for the conduct of court proceedings, he/she shows a clear intention of co-operation with the competent authorities in the detection of criminal offences, and he/she has severed contacts with the suspected traffickers. The permit is issued for a period of up to six months, which can be extended if the previously-mentioned conditions persist.

166. The temporary residence permit can be withdrawn if the foreign victim voluntarily, actively and on their own initiative renews contacts with the traffickers, or for reasons of public order and national security, if the victim no longer co-operates with the competent authorities, and if the competent authorities decide to stop the procedure.

167. The Unit against THB and Smuggling of Migrants is responsible for submitting a request for a residence permit to the Department for foreigners of the regional centre for Border Affairs-North in Skopje.

168. According to information provided by the Macedonian authorities, no victims of trafficking were issued a residence permit in 2009-2011. The Macedonian authorities have indicated that the absence of residence permits in 2009-2011 was due to the fact that none of the identified victims of THB submitted requests for such a permit by filling out the required form. In 2012 three victims of THB (two from Kosovo* and one from Bosnia and Herzegovina) were issued permits for temporary stay with a validity of six months.

169. GRETA urges the Macedonian authorities to ensure that victims of trafficking are systematically informed of and can fully benefit from the right to obtain a renewable residence permit. GRETA also invites the Macedonian authorities to consider granting temporary residence permits to victims who do not co-operate with the competent authorities.

e. Compensation and legal redress

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

171. In “the former Yugoslav Republic of Macedonia”, victims of THB may file a request for compensation at any stage of the criminal proceedings before the trial. Compensation can be claimed for both material and non-material damages. A neuropsychiatric report assessing the level of intensity of the suffering inflicted upon the victim is requested. GRETA understands that there have been cases of victims of trafficking awarded compensation by courts (up to 400 000 MKD, i.e. approximately 7 000 euros), but the offenders did not have any identifiable assets and therefore the compensation orders could not be enforced. Further, GRETA was informed of cases in which the judge refused to consider a compensation claim because the person was seen merely as a “presumed victim” until the trafficker was convicted.

172. The court may refer the victim to the civil procedure for exercising his/her right to receive compensation, but the civil procedure is reportedly never used as it is expensive and the offender’s presence in court is required.

173. Pursuant to the new Criminal Procedure Law which entered into force on 1 December 2013, a victim of a crime for which a prison sentence of at least four years has been prescribed (i.e. including THB) is entitled to compensation of material and non-material damages from a state fund under the terms and in the manner prescribed by a special law, if the compensation cannot be recovered from the defendant. The Macedonian authorities are in the process of considering how to set up a State compensation fund which is accessible to victims of THB.

174. Pursuant to the Criminal Procedure Law, a victim of a crime for which a prison sentence of at least four years has been prescribed (i.e. including THB) is entitled to a counsellor at state expense when giving a statement or filing a compensation claim, if there are serious psychological and physical damages or more serious consequences from the criminal act. Despite the fact that under the Law on Free Legal Assistance victims of THB are entitled to apply for free legal assistance, GRETA was informed that the conditions for obtaining free legal assistance were too difficult to meet and therefore victims of THB are assisted by a lawyer (including to claim compensation) who is paid for by the NGO Open Gate/La Strada.

175. **GRETA urges the Macedonian authorities to adopt measures to enable victims of trafficking to exercise their right to compensation, in particular by:**

- **ensuring that victims of trafficking are systematically informed, in a language that they can understand, of the right to seek compensation and the procedures to be followed;**
- **enabling victims of trafficking to exercise their right to compensation by ensuring their effective access to legal aid;**
- **building the capacity of legal practitioners to support victims to claim compensation and including compensation into existing training programmes for law enforcement officials and the judiciary.**

176. **Further, bearing in mind that no victims of trafficking have received compensation from the perpetrators, GRETA urges the Macedonian authorities to set up a State compensation scheme accessible to victims of THB.**

- f. Repatriation and return of victims

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

178. Pursuant to the Standard Operating Procedures, the responsibility for the safe return of victims is vested with the Office of the NRM, in co-operation with the Unit against THB and Smuggling of Migrants and NGOs. According to the Standard Operating Procedures, the process of returning should be voluntary and secure. Victims should be given the possibility to state whether, when and how they would like to return home. For Macedonian citizens, return is performed either through the Office of the NRM or individually at their own expense. The responsible person prepares a draft plan for reintegration which is obligatory for minors. Adults who do not want to be included in the reintegration programme are offered information on institutions and organisations where they can seek help and support.

179. For foreign citizens, the competent institutions are the Ministry of the Interior, the Ministry of Labour and Social Police and the Ministry of Foreign Affairs. It is also possible to return a foreign victim with the involvement of NGOs and IOM, as well as at the person's own expense.

180. Regarding Macedonian children returning to the country, social workers make an assessment of the family in order to establish the possibilities for participation in the child's reintegration and re-socialization. A foreign child cannot be returned to his/her country or a third country which agrees to accept him until that country has conducted a detailed assessment of the family and provided proper conditions for accepting the child. The child must not be returned if this would be contrary to the UN Convention on the Rights of the Child, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the European Convention for the Protection of Human Rights and Fundamental Freedoms.

181. The IOM Office in Skopje, in co-operation with other IOM missions and partner organisations, runs programmes for assisted voluntary return (AVR) which are accessible to victims of THB. Until 2010, the AVR programme in Skopje was funded by the Swedish International Development Agency (Sida), but this funding has been phased out. Nevertheless, the IOM Office in Skopje continues to receive referrals from Belgium, Switzerland and other countries. Between 2000 and 2010, IOM assisted 785 victims of THB in “the former Yugoslav Republic of Macedonia” (776 of whom were foreign nationals).

182. GRETA’s attention was drawn to the fact that some Macedonian victims of THB are returned to “the former Yugoslav Republic of Macedonia” under re-admission agreements without any information being sent to the competent authorities in “the former Yugoslav Republic of Macedonia”. Further, GRETA was informed that social work centres are understaffed and overburdened, with a high turnover of staff and insufficient specialisation. The number of cases each social worker has to deal with is big and this results in limited possibilities to assist victims of trafficking. GRETA stresses the need to ensure the access of victims of THB to reintegration measures, including with a view to preventing re-trafficking.

183. GRETA considers that the Macedonian authorities should take further steps to ensure that the return of victims of trafficking to another state is conducted 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, and is preferably voluntary.

4. Implementation by “the former Yugoslav Republic of Macedonia” of measures concerning substantive criminal law, investigation, prosecution and procedural law

a. Substantive criminal law

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

185. Article 418-a of the Criminal Code of “the former Yugoslav Republic of Macedonia” provides for imprisonment of at least four years for the basic offence of human trafficking in adults, and Article 418-d of the CC prescribes at least eight years of imprisonment for trafficking in minors. Pursuant to the general provisions of the CC on maximum penalties, the maximum penalty for THB (both in adults and in children) is 15 years of imprisonment.

186. The aggravating circumstances provided for in Articles 418-a and 418-d of the CC include the offence being committed by an official while performing his/her duties, punishable by at least eight years of imprisonment in case of THB in adults and at least 10 years of imprisonment in case of THB in children. Further, Article 418-c of the CC envisages imprisonment of at least eight years for the organiser of a group, gang or other association with the intention to commit crimes stipulated in Articles 418-a (trafficking in adults), 418-b (smuggling of migrants) and 418-d (trafficking in children) of the CC. However, one aggravating circumstance provided for in the Convention, namely when the offence deliberately or by gross negligence endangered the life of the victim, is omitted from the provisions of the CC related to THB. The Macedonian authorities have referred to Article 39 of the CC which contains general provisions for assessment of the penalty. Pursuant to paragraph 2 of this article, the court has to consider all circumstances which influence the nature of the penalty (both alleviating and aggravating circumstances), such as the motives for perpetrating the offence, the threatening force or damage, and the circumstances under which the offence was perpetrated. The law does not spell out all alleviating and aggravating circumstances and leaves it to the court to decide which ones to take into account. **GRETA invites the Macedonian authorities to ensure that all the aggravating circumstances included in the Convention are appropriately taken into account.**

187. Reference should be made to Article 418-b of the CC entitled “smuggling of migrants” which reads: “(1) One who, using force or serious threat that will attack the life or body, with kidnapping, fraud, out of greed, with misuse of his/her official position or using of the powerlessness of other illegally transfers migrants through the state border, as well as one that produces, purchases or owns fake passport with such intention, shall be sentenced with imprisonment of at least four years.”³⁵ GRETA notes that this offence is a combination of means and actions similar to those related to human trafficking, but there is no element of exploitation. In this respect, GRETA stresses that according to the Convention, a person is to be considered a victim of trafficking even if the exploitation has not yet taken place, when he/she has been subjected to one of the actions with the use of one of the means. Trafficking in human beings is consequently present before the victim’s actual exploitation.³⁶ The Macedonian authorities have indicated that the incrimination in Article 418-b of the CC results from the Protocol against smuggling of migrants by land, water or air to the UN Convention on Transnational Organised Crime. Article 418-b contains several forms: basic act of forced smuggling (paragraph 1), act of trafficking in migrants (paragraph 2) and more grievous forms of the acts (paragraphs 3 to 5). According to the 2012 report of the National Commission, 34 criminal cases were opened under Article 418-b of the CC in respect of 46 persons. GRETA notes that the co-existence of this offence with the offence of trafficking in human beings under Article 418-a of the CC might account for the rather low numbers of officially identified victims of trafficking. The Macedonian authorities have stated that the increased number of cases of smuggled migrants in comparison with cases of THB is due to the fact that the country, like the other countries in the region, has been receiving an increased influx of irregular migrants as part of the international route for smuggling migrants from the Near and Middle East, as well as North Africa. **GRETA invites the Macedonian authorities to examine the relationship between Articles 418-a and 418-b of the CC with a view to clarifying the scope of application of these two provisions.**

188. As noted in paragraph 113, the use of services from persons who are victims of THB, while knowing that they are trafficked, is criminalised by Article 418-a, paragraph 3, and Article 418-d, paragraph 3, of the CC (concerning children). The punishment envisaged is imprisonment for a term of from six months to five years if the victim is an adult, and at least eight years if the victim is a child. GRETA welcomes the inclusion of this provision in Macedonian legislation. During the evaluation visit, the GRETA delegation was informed of the so-called case “Sejdo” in which there were 20 accused for THB-related offences, including on the basis of Article 418-a, paragraph 3, of the CC. In their comments to the draft GRETA report, the Macedonian authorities have stated that final effective judgments were reached against the perpetrators.³⁷

³⁵ Unofficial translation provided by the Macedonian authorities.

³⁶ See paragraph 87 of the Explanatory Report on the Convention.

³⁷ VI.KOK No. 20/12.

189. Pursuant to Article 418-a, paragraph 2, destroying or taking away an ID, passport or other for identification document for the purpose of committing THB is punished with imprisonment of at least four years. A similar provision exists in respect of trafficking in children (Article 418-d, paragraph 4, of the CC). These provisions do not refer to some of the actions listed under Article 20 of the Convention, namely concealing and damaging a travel or identity document for the purpose of enabling THB. In this context, the Ministry of Justice has indicated that further consideration is needed regarding the necessity of harmonisation of the Criminal Code with this provision of the Convention. **GRETA considers that the Macedonian authorities should adopt measures to establish as criminal offences all the actions listed under Article 20 of the Convention.**

190. The criminal liability of legal persons is established in Article 418-a, paragraph 6, of the CC (concerning trafficking in adults) and Article 418-d, paragraph 7, of the CC (concerning trafficking in children). The sanction envisaged is a fine. In accordance with Articles 96-a and 96-b of the CC, the main penalty for criminal offences committed by legal entities is a fine. If the court considers that the legal entity has neglected its duty and there is a potential risk of repeating the illegal activity in the future, it can impose one or several of the following penalties: 1) prohibition on obtaining permits, licenses, concessions, authorisations or other rights determined by special law; 2) prohibition on participation in public call procedures, granting public procurement contracts and contracts for public-private partnership; 3) prohibition on establishing new legal entities; 4) prohibition on benefiting from subsidies and loans; 5) prohibition on the use of means of financing of political parties from the State budget; 6) confiscation of permit, license, concession, authorisation or other right determined by special law; 7) temporary ban on performing a specific business; 8) permanent ban on doing a specific business, and 9) termination of the legal entity. There have been no convictions of legal entities for THB-related offences.

191. The confiscation of real estate, items and means of transport used for committing the crime of THB is envisaged in Article 418-a, paragraph 7, of the CC (concerning trafficking in adults) and Article 418-d, paragraph 8, of the CC (concerning trafficking in children). Further, Article 202 of the Criminal Procedure Law entitled "temporary confiscation of property or items due to security reasons" provides that at any time during the criminal proceeding and if requested by the public prosecutor, the court can decide on the temporary measure of confiscation of property or items, as well as the measure of seizure or other necessary temporary measure to prevent the use, deprivation or possession of such property or items. The Macedonian authorities have informed GRETA that in several THB cases, vehicles, catering facilities and a motel were confiscated in pursuance of a final effective judgment of the court. GRETA recalls that the confiscation of criminal assets, which requires prior detection, identification and seizure of the illegal assets at the time of the criminal investigations, is crucial to reinforce the effect of the penalty and to ensure the payment of compensation to the victim.

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

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

193. Macedonian legislation does not contain a specific legal provision concerning the non-punishment of victims of trafficking. According to prosecutors and judges met during the evaluation visit, the provisions of the CC establish the general principles that an act committed under threat would not be considered a criminal offence and that there is no criminal offence without an unlawful act or culpability. The court in such a case assesses whether the victim committed the criminal offence under coercion by the traffickers, which is considered to be an alleviating circumstance or absolution of guilt.

194. GRETA was informed that there are no guidelines to prosecutors on the issue of non-punishment of victims of THB, but this principle is being observed in accordance with the Convention.

195. **GRETA urges the Macedonian authorities to take legislative measures 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. In order to ensure that victims of THB are not punished for offences committed while being trafficked, the authorities should consider issuing guidance to the prosecutorial and judicial authorities advising them on the steps to be taken when a person might be a victim of trafficking. While the identification procedure is ongoing, potential victims of trafficking should not be punished for immigration-related offences.** Reference is made in this context to the recommendations on non-punishment for legislators and prosecutors contained in the paper issued by the OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings in consultation with the Alliance against Trafficking in Persons Expert Co-ordination Team.³⁸

c. Investigation, prosecution and procedural law

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

197. In "the former Yugoslav Republic of Macedonia", a criminal investigation into trafficking in human beings is initiated *ex officio* by the public prosecutor. As noted in paragraph 32, the Basic Public Prosecutor's Office for organised crime and corruption is competent for prosecuting all THB cases in the country, regardless of whether they were committed by organised crime groups or not. Further, the Basic Court Skopje 1 is the only court in the country dealing with cases of organised crime, including THB.

198. The investigation of all THB cases in "the former Yugoslav Republic of Macedonia" is entrusted to the specialised Unit against THB and Smuggling of Migrants within the Ministry of the Interior, which has 11 staff members. This unit works in close collaboration with the Financial Crime Department which gathers intelligence in parallel. The financial report is included in the materials submitted to the Prosecutor's Office and money laundering charges can be filed in addition to trafficking charges.

199. Special investigation techniques are regulated by Article 142 of the Criminal Procedure Law, which provides for nine different techniques. Of them, interception of communication, secret surveillance and use of undercover agents have reportedly been used successfully by the Unit against THB and Smuggling of Migrants in cases of THB.

200. According to police officers met during the evaluation visit to "the former Yugoslav Republic of Macedonia", the police adopt a proactive approach to combating human trafficking. The GRETA delegation was presented several examples of police inquiries leading to successful convictions for human trafficking. However, according to NGOs, there is a need for a more proactive approach by the police.

201. According to the annual reports of the National Commission, in 2010, three criminal cases were initiated for trafficking in children (involving a total of 12 suspects and five child victims); in 2011, five criminal cases were initiated for THB (involving 35 suspects and 11 victims); and in 2012, three criminal cases were initiated for THB (involving six suspects and eight victims). Regarding convictions for THB, there was one in 2010 (concerning three perpetrators), six in 2011 (concerning 17 perpetrators) and four in 2012 (concerning 24 perpetrators). The sentences ranged from two to 10 years of imprisonment. In 2013, there were four final effective judgments, of which three were second-instance judgements and one first-sentence judgment. Compensation was awarded to four victims of THB, in each case for the amount of 400 000 MKD, but the compensation orders remained to be enforced. There have been several cases of police officers sentenced for involvement in human trafficking: one police officer was convicted in 2010, another one in 2011, and three in 2013.

202. During the country visit, the GRETA delegation sought information on the case “SerbAz” which involved men from Bosnia and Herzegovina, Serbia and “the former Yugoslav Republic of Macedonia” allegedly trafficked to Azerbaijan in 2009. The persons in question were recruited as construction workers by the company “SerbAz Project Design and Construction LLC” (registered in the Netherlands and Azerbaijan). According to a report by the NGO Astra, the persons concerned had had their passports taken away upon arrival in Azerbaijan, were accommodated in poor conditions and did not have their salaries paid. The GRETA delegation was informed that the Unit against THB and Smuggling of Migrants had interviewed some 30 Macedonian citizens in relation to the SerbAz case. These persons reportedly did not consider themselves as victims of trafficking and had travelled to Azerbaijan several times to work. Although there were elements of labour exploitation, the persons concerned were unwilling to testify in court (victims’ statements in court are necessary for the conviction) and no co-operation was received from Azerbaijan. All materials were submitted to the Prosecutor’s Office, but no case was opened.

203. While it welcomes the law enforcement and prosecution efforts against human trafficking in “the former Yugoslav Republic of Macedonia”, **GRETA considers that the authorities should further develop the specialisation and training of prosecutors and judges with a view to ensuring that crimes related to THB are effectively prosecuted, leading to proportionate and dissuasive sanctions.**

d. Protection of victims and witnesses

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

205. Pursuant to the Criminal Procedure Law (see paragraph 58), victims are entitled to special measures of procedural protection when giving statements and during the investigation in all of the phases of the procedure. The special procedural protection measures are specified by the court upon a proposal of the prosecutor or the victim or by the court’s own discretion when necessary to protect endangered and especially vulnerable victims. Victims of THB are also entitled to ask to be interviewed using audio-video devices in the manner specified by law and to ask for exclusion of the public from the main hearing. Endangered witnesses can have their identity and appearance concealed and may be interviewed under a pseudonym. Further, the Law on Witness Protection from 2005³⁹ provides for the inclusion of victims in a witness protection programme. There is a special witness protection unit.

³⁹ Official Gazette of the Republic of Macedonia No. 38/05 of 26.05.2005.

206. Special measures on the protection of children in the criminal procedure are provided under the Law on Juvenile Justice and the Criminal Procedure Law. A child victim may be interviewed more than twice only in exceptional cases. The Criminal Procedure Law (Article 223) introduces special protection for child victims of trafficking in human beings, violence or sexual abuse in the form of interrogation by video conference or another video link. GRETA understands that six child-friendly interview rooms have been set up around the country and five more are planned to be opened. The Macedonian authorities have indicated that in almost all criminal proceedings concerning child victims of THB, the provisions of the Criminal Procedure Code on the use of protection measures for especially vulnerable victims were enforced.

207. GRETA considers that the Macedonian authorities should make full use of the measures available to protect victims and witnesses of THB and to prevent intimidation during the investigation and during and after the court proceedings.

5. Concluding remarks

208. GRETA welcomes the steps taken by the Macedonian authorities to combat trafficking in human beings, through the adoption and regular updating of legislation and the setting up of coordinating bodies and specialised structures. The involvement of civil society in the drafting and implementation of the national strategy and action plan is a positive aspect of the country's anti-trafficking framework. GRETA also commends the emphasis on training of relevant professionals and the efforts to raise public awareness and reduce the vulnerability to trafficking of specific groups.

209. Securing funding from the State budget will be indispensable for the implementation of the national strategy and action plan. GRETA draws attention to the need for adapting the existing anti-trafficking policies with a view to strengthening action against trafficking for the purpose of labour exploitation and paying increased attention to prevention and protection measures addressing the particular vulnerability of children to trafficking. Additional measures should be taken to discourage demand for the services of trafficked persons, for all forms of exploitation, in partnership with the private sector and civil society.

210. While GRETA acknowledges the important steps taken by the Macedonian authorities so far, a number of challenges remain to be tackled in order to meet the requirements of the human rights-based and victim-centred approach outlined in paragraphs 42-45. It is incumbent on the authorities to ensure that all victims of trafficking are properly identified and can benefit from the assistance and protection measures provided for under the Convention and Macedonian law. GRETA stresses the need for promoting multi-agency involvement in victim identification and paying more attention to the identification of victims of THB among irregular migrants, asylum seekers and unaccompanied foreign minors. Efforts should be made to ensure that victims of trafficking can fully benefit from the right to be granted a recovery and reflection period and to obtain a renewable residence permit.

211. Facilitating the reintegration of victims of THB into society and avoiding re-trafficking by providing them with long-term assistance is also crucial for a human right-based approach to action against THB. Furthermore, the Macedonian authorities must make continued efforts to empower victims of THB by ensuring their effective access to compensation.

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

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

Appendix I: List of GRETA's proposals

Comprehensive approach and co-ordination

1. GRETA considers that the Macedonian authorities should continue to raise awareness among professionals and the general public as regards the scope of the definition of trafficking in human beings and the difference and links between human trafficking and migrant smuggling.
2. GRETA invites the Macedonian authorities to further strengthen co-ordination between public bodies and civil society actors engaged in anti-trafficking action and to ensure that the latter are provided with the financial resources necessary to carry out the relevant activities under the National Action Plan for 2013-2016.
3. GRETA considers that the Macedonian authorities should establish a fully-fledged post of National Co-ordinator supported by a dedicated office which is commensurate with the tasks at hand, to enable this body to effectively carry out its mandate. Further, GRETA invites the Macedonian authorities to establish the National Rapporteur as a de jure independent post with a mandate to monitor the anti-trafficking activities of State institutions (see Article 29, paragraph 4, of the Convention and paragraph 298 of the Explanatory Report).
4. GRETA also considers that the Macedonian authorities should take further steps to ensure that national action to combat THB is comprehensive, and in particular:
 - strengthen action to combat THB for the purpose of labour exploitation by involving labour inspectors, civil society, businesses, trade unions and employment agencies in a joint platform and improving the identification of, and assistance, to victims of THB for the purpose of labour exploitation;
 - pay increased attention to prevention and protection measures addressing the particular vulnerability of children to trafficking, in particular children from socially vulnerable groups, and ensure that the best interests of the child are fully taken into account;
 - ensure that trafficking for the purpose of forced begging and internal trafficking are adequately addressed by the national anti-trafficking policy;
 - take measures to identify the scale of trafficking of foreign nationals and to provide such victims of THB with assistance in accordance with the Convention.

Training of relevant professionals

5. GRETA invites the Macedonian authorities to continue improving the knowledge, awareness and sensitivity of relevant professionals (including police officers, social workers, labour inspectors, professionals working with children, medical staff, prosecutors, judges, trade unions staff, journalists) about THB and the rights of victims. Future training programmes should be designed with a view to improving the knowledge and skills of relevant professionals which enable them to identify victims of trafficking, to assist and protect them, to facilitate compensation for victims and to secure convictions of traffickers.

Data collection and research

6. GRETA invites the Macedonian authorities to continue developing the aspect of data collection on THB by compiling reliable statistical information from all main actors which allows disaggregation (concerning sex, age, type of exploitation, country of origin and/or destination, etc.). This should be accompanied by all the necessary measures to respect the right of data subjects to personal data protection, including when NGOs working with victims of trafficking are asked to provide information for the national database.

7. GRETA considers that the Macedonian authorities should conduct and support research on THB-related issues as an important source of information for the evaluation of current programmes and for planning future policy measures. Areas where more research is needed in order to shed light on the extent and trends of human trafficking in the country and inform policy makers include trafficking for the purpose of labour exploitation, trafficking for the purpose of forced begging and internal trafficking.

International co-operation

8. GRETA welcomes the efforts of the Macedonian authorities in the area of international co-operation and invites them to continue developing international co-operation with a view to combating THB and providing assistance to victims.

Measures to raise awareness

9. GRETA considers that future awareness-raising measures should be designed in the light of the assessment of previous measures and be focused on the needs identified. Awareness raising should continue targeting vulnerable groups and inform the general public of forms of THB which are on the rise, such as labour exploitation, forced begging, forced commission of criminal offences and trafficking within the country.

Measures to discourage demand

10. GRETA invites the Macedonian authorities to continue their efforts to discourage demand for the services of trafficked persons, for all forms in exploitation, in partnership with the private sector and civil society.

Social, economic and other initiatives for groups vulnerable to THB

11. GRETA welcomes the measures taken by the Macedonian authorities vis-à-vis groups vulnerable to THB and considers that the authorities should continue to develop the aspect of prevention through social and economic empowerment measures.

12. Further, GRETA urges the Macedonian authorities to take steps to secure the registration of all persons, both as a prevention measure and in order to avoid re-trafficking. If necessary, the relevant legislation should be amended to facilitate the process of registration.

Border measures to prevent THB and measures to enable legal migration

13. GRETA welcomes the measures taken by the Macedonian authorities and considers that the authorities should make further efforts to:

- detect cases of THB in the context of border control;
- introduce a checklist to identify potential THB-related risks during the visa application system.

Identification of victims of trafficking in human beings

14. GRETA urges the Macedonian authorities to take further steps to ensure that all victims of trafficking are properly identified and can benefit from all the assistance and protection measures provided for under the Convention. To this end, the authorities should:

- promote multi-agency involvement in victim identification by formalising the role and input of specialised NGOs and involving other relevant actors, such as labour inspectors;
- strengthen the capacity of the existing network of social workers to proactively identify victims of trafficking;

- pursue a proactive approach to the identification of victims of trafficking for the purpose of labour exploitation by expanding the powers of labour inspectors to also cover non-registered businesses and private homes and encouraging labour inspections in sectors most at risk (e.g. agriculture, entertainment, service sector, construction, domestic work);
- pay more attention to the identification of victims of trafficking among irregular migrants, asylum seekers and unaccompanied foreign minors and provide additional training to staff who come in contact with such persons.

Assistance to victims

15. GRETA welcomes the inclusion of victims of THB among the categories of persons entitled to health protection and encourages the Macedonian authorities to guarantee access to health care for victims of trafficking.

16. GRETA urges the Macedonian authorities to strengthen their efforts to provide assistance to victims of trafficking, 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;
- provide suitable accommodation to child and male victims of trafficking and make sure that they can fully benefit from the assistance measures provided for in law;
- ensure that presumed foreign victims of trafficking are moved to the State shelter for victims of THB as soon as there are reasonable grounds to believe that they are victims of trafficking, without waiting for a residence permit to be issued;
- facilitate the reintegration of victims of THB into society and avoid re-trafficking by providing them with long-term assistance, including vocational training and access to the labour market.

Recovery and reflection period

17. GRETA urges the Macedonian authorities to ensure that the decision-making period is not conditional on the victim's co-operation with the law enforcement authorities. Further, the authorities should ensure that no termination of the decision-making period is carried out on the grounds of the victim having "voluntarily, actively or upon his/her own initiative renewed contacts with the suspected traffickers" without due regard to the person's individual situation, which involves an examination of his/her case.

Residence permits

18. GRETA urges the Macedonian authorities to ensure that victims of trafficking are systematically informed of and can fully benefit from the right to obtain a renewable residence permit. GRETA also invites the Macedonian authorities to consider granting temporary residence permits to victims who do not co-operate with the competent authorities.

Compensation and legal redress

19. GRETA urges the Macedonian authorities to adopt measures to enable victims of trafficking to exercise their right to compensation, in particular by:

- ensuring that victims of trafficking are systematically informed, in a language that they can understand, of the right to seek compensation and the procedures to be followed;
- enabling victims of trafficking to exercise their right to compensation by ensuring their effective access to legal aid;
- building the capacity of legal practitioners to support victims to claim compensation and including compensation into existing training programmes for law enforcement officials and the judiciary.

20. Further, bearing in mind that no victims of trafficking have received compensation from the perpetrators, GRETA urges the Macedonian authorities to set up a State compensation scheme accessible to victims of THB.

Repatriation and return of victims

21. GRETA considers that the Macedonian authorities should take further steps to ensure that the return of victims of trafficking to another state is conducted 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, and is preferably voluntary.

Substantive criminal law

22. GRETA invites the Macedonian authorities to ensure that all the aggravating circumstances included in the Convention are appropriately taken into account.

23. GRETA invites the Macedonian authorities to examine the relationship between Articles 418-a and 418-b of the CC with a view to clarifying the scope of application of these two provisions.

24. GRETA considers that the Macedonian authorities should adopt measures to establish as criminal offences all the actions listed under Article 20 of the Convention.

Non-punishment of victims of trafficking in human beings

25. GRETA urges the Macedonian authorities to take legislative measures 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. In order to ensure that victims of THB are not punished for offences committed while being trafficked, the authorities should consider issuing guidance to the prosecutorial and judicial authorities advising them on the steps to be taken when a person might be a victim of trafficking. While the identification procedure is ongoing, potential victims of trafficking should not be punished for immigration-related offences.

Investigation, prosecution and procedural law

26. GRETA considers that the authorities should further develop the specialisation and training of prosecutors and judges with a view to ensuring that crimes related to THB are effectively investigated and prosecuted, leading to proportionate and dissuasive sanctions.

Protection of victims and witnesses

27. GRETA considers that the Macedonian authorities should make full use of the measures available to protect victims and witnesses of THB and to prevent intimidation during the investigation and during and after the court proceedings.

Appendix II: List of public bodies and intergovernmental and civil society organisations with which GRETA held consultations

Public bodies

- Ministry of the Interior
 - National Co-ordinator for Combatting Trafficking in Human Beings and Illegal Migration
 - National Rapporteur on Trafficking in Human Beings
 - Unit against Trafficking in Human Beings and Smuggling of Migrants
 - Sector for Border Affairs
- Ministry of Labour and Social Policy
 - Office of National Referral Mechanism
 - State Labour Inspectorate
- Ministry of Education
- Ministry of Foreign Affairs
- Ministry of Justice
- Ministry of Health
- Public Prosecutor's Office
- Basic Court Skopje 1

Intergovernmental organisations

- OSCE Mission to Skopje
- IOM
- UNHCR
- UNICEF

Civil society organisations

- Open Gate/La Strada Macedonia
- Equal Access
- For Happy Childhood
- Macedonian Red Cross
- Women's organisation Sv.Nikole
- Union of Independent and Autonomous Trade Unions of Macedonia (UNASM)

Government's comments

The following comments do not form part of GRETA's analysis concerning the situation in "the former Yugoslav Republic of Macedonia"

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

The Convention requires that "the report and conclusions of GRETA shall be made public as from their adoption, together with eventual comments by the Party concerned." GRETA transmitted its final report to the Macedonian authorities on 29 April 2014 and invited them to submit any final comments. The comments of the authorities of "the former Yugoslav Republic of Macedonia", submitted on 28 May 2014, are reproduced hereafter.



Government of the Republic Macedonia

**National Commission for Fight against Trafficking in Human Beings
and Illegal Migration**

Reg. No.09-177/1
Date: 28/05/2014
Skopje

TO: Ms Petya NESTOROVA
Executive Secretary of the Council of Europe Convention on Action against
Trafficking in Human Beings

SUBJECT: Final Report with Recommendations

Dear Ms Nestorova,

On 29 April 2014 the Republic of Macedonia received the GRETA Final Report with Recommendations Concerning the Implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Republic of Macedonia.

The Task Force composed of representatives of governmental and citizens' organization involved in the evaluation and in the preparation of the GRETA Questionnaire has considered it and has adopted the following Conclusion:

The Republic of Macedonia welcomes GRETA's readiness to recognize the progress made by the Republic of Macedonia in the fight against trafficking in human beings, as noted in the Conclusions of the Report.

The Republic of Macedonia also welcomes the acceptance of part of the remarks and additional answers produced in the response to the Draft Report delivered by the Republic of Macedonia on 11 February 2014, which are incorporated in the Final Report.

The Task Force has no further remarks concerning the delivered Final Report with Recommendations.

The Republic of Macedonia attaches great importance to the recommendations offered in the Final Report and the National Commission for Fight against Trafficking in Human Beings and Illegal Migration, as the national body responsible for implementing the CoE Convention, will undertake the following activities:

It will prepare an action plan for implementation of GRETA recommendations offered in the Final Report by identifying the recommendation that needs to be implemented, the activities for their implementation, the competent institution and the time frame for its implementation.

The National Commission will maintain regular contact, through the National GRETA Contact Person, for the purpose of informing about the planned and implemented measures, aiming at full implementation of the Council of Europe Convention on Action against Trafficking in Human Beings.

Yours sincerely,

**Deputy Chairperson of the National Commission
National GRETA Contact Person
Sande KITANOV**