



EVALUATION REPORT

GEORGIA

Third evaluation round

GRETA

Group of Experts
on Action against
Trafficking
in Human Beings

Access to justice
and effective remedies
for victims of trafficking
in human beings

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Preamble

The Group of Experts on Action against Trafficking in Human Beings (GRETA) was established pursuant to Article 36 of the Council of Europe Convention on Action against Trafficking in Human Beings ("the Convention"), which entered into force on 1 February 2008. GRETA is responsible for monitoring the implementation of the Convention by the parties and for drawing up reports evaluating the measures taken by each party.

In accordance with Article 38, paragraph 1, of the Convention, GRETA evaluates the implementation of the Convention following a procedure divided into rounds. At the beginning of each round, GRETA selects the specific provisions of the Convention on which the evaluation procedure is based.

The first round of monitoring of the Convention provided an overview of its implementation by State Parties. The second evaluation round of the Convention examined the impact of legislative, policy and practical measures on the prevention of trafficking in human beings, the protection of the rights of victims of trafficking, and the prosecution of traffickers, paying particular attention to measures taken to address new trends in human trafficking and the vulnerability of children to trafficking.

GRETA has decided that the third evaluation round of the Convention will focus on trafficking victims' access to justice and effective remedies, which is essential for victims' rehabilitation and reinstatement of rights, and reflects a victim-centred and human-rights based approach to the fight against human trafficking. A number of provisions of the Convention establishing substantive and procedural obligations are relevant to this topic, in particular articles 12, 15, 23, 26, 27, 28, 29, 30 and 32.

Access to justice and effective remedies is contingent on the fulfilment of a number of preconditions, including prompt and accurate identification of victims of trafficking, the provision of a recovery and reflection period, the availability of material, psychological, medical and legal assistance, access to translation and interpretation, when appropriate, regularisation of the victim's stay, the right to seek and enjoy asylum, and full respect for the principle of *non-refoulement*. These preconditions, corresponding to various provisions of the Convention, have been examined at length during the first and second evaluation rounds of monitoring of the Convention. Consequently, GRETA has decided to ask each State Party for an update on the implementation of GRETA's previous recommendations on selected topics through a separate country-specific part of the questionnaire. GRETA's findings and analysis of these topics are presented in a separate chapter.

Executive summary

Since the second evaluation round of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings, Georgia has continued to develop the legislative and policy framework relevant to action against trafficking in human beings. In 2018, amendments were made to the Criminal Code and Criminal Procedure Code to ensure proper qualification of human trafficking offences and facilitate the collection of evidence. National anti-trafficking action plans were adopted for the periods 2017-2018 and 2019-2020.

Georgia is primarily a country of origin and, to a lesser extent, a country of destination and transit of victims of trafficking in human beings. The total number of victims identified in the period 2015-2019 was 66. Until 2018, the majority of the identified victims were women trafficked for the purpose of sexual exploitation, but in 2019 all identified victims were Georgian children, trafficked for the purpose of production of child sexual abuse images or exploitation of begging.

The focus of the third evaluation round of the Convention being on trafficking victims' access to justice and effective remedies, the report analyses in detail the implementation of provisions of the Convention establishing substantive and procedural obligations relevant to this topic.

The authorities have developed an information brochure – available in three languages – which explains the services available to victims of human trafficking. Nevertheless, GRETA considers that the Georgian authorities should provide officials with continuous training and instructions on how to properly explain to victims of trafficking their rights and systematically refer them to the State Fund for the Protection and Assistance to Victims of Trafficking or specialised NGOs for support and assistance.

In criminal proceedings, the right to free legal aid is ensured to adult and child victims of human trafficking and provided by lawyers of the State Fund and the State Legal Aid Service. These lawyers undergo annual training on human trafficking issues. Free legal aid is also available in civil and administrative proceedings under certain conditions. Nevertheless, GRETA considers that the authorities should take further steps to ensure that access to legal aid and the appointment of a lawyer are guaranteed as soon as there are reasonable grounds for believing that a person is a victim of human trafficking, before the persons concerned have to decide whether or not they want to co-operate with the authorities and/or make an official statement.

Only three victims of human trafficking have received compensation from perpetrators through civil proceedings, and there has been only one judgement in human trafficking cases resulting in the confiscation of assets. If victims and persons affected by human trafficking present evidence that they cannot obtain compensation from the trafficker(s) through court proceedings, a one-off compensation shall be paid to them from the State Fund. An amendment to the Anti-Trafficking Law has been drafted to ensure that state compensation can be paid without the requirement to apply to a court for compensation from the trafficker and immediately after obtaining the official status of victim. GRETA urges the authorities to take vigorous measures to facilitate and guarantee access to compensation for victims of trafficking, including by introducing a procedure through which victims are entitled to obtain a decision on compensation from the offender as part of the criminal trial, and making full use of the legislation on the freezing and forfeiture of offenders' assets and international co-operation to secure compensation to victims of trafficking.

In the period 2015-2018, a total of 80 investigations were conducted into human trafficking cases. Four cases of human trafficking involved plea bargaining. The number of convictions in the same period was 15. GRETA notes with concern that there have been no convictions for trafficking for the purpose of labour exploitation. GRETA considers that the Georgian authorities should take further steps to ensure that human trafficking offences for all forms of exploitation are proactively and promptly investigated, making use of special investigation techniques and financial investigations in order to gather evidence and not rely exclusively on testimony by victims or witnesses. GRETA urges the Georgian authorities to ensure that human trafficking cases are not re-qualified as other offences which carry lighter penalties and deprive

victims of access to protection, support and compensation. The plea-bargaining procedure should be used only exceptionally in human trafficking cases, subject to appropriate safeguards.

While welcoming the specific legal provision and practice in Georgia as regards the implementation of the non-punishment provision of the Convention, GRETA considers that the Georgian authorities should develop guidance and training for police officers and prosecutors on the non-punishment provision.

GRETA notes positively the further development of the victim and witness co-ordinator service under the General Prosecutor's Office and the creation of such a service under the Ministry of Internal Affairs. Nevertheless, GRETA considers that the Georgian authorities should take additional steps to ensure that victims and witnesses of human trafficking are provided with effective and appropriate protection from potential retaliation or intimidation, and that purpose-designed interviewing rooms, equipped with audio-visual technology, are always used to interview victims of trafficking in police stations and courts.

GRETA welcomes the existence of specialised entities for combating human trafficking within the police and considers that the Georgian authorities should take additional steps to ensure that all relevant professional groups are regularly trained on trafficking issues.

Whilst welcoming the steps taken by Georgia on developing a child-friendly environment in courts, GRETA invites the Georgian authorities to ensure that child victims of trafficking are in practice afforded special protection measures, including in the context of interviews, both as regards the competencies of the professionals present and the environment in which the interviews are conducted.

The report also examines progress made on the implementation of previous GRETA recommendations on selected topics. GRETA welcomes the adoption of the Labour Safety Code and the increase in the number of labour inspectors. Nevertheless, GRETA urges the Georgian authorities to continue reinforcing the capacity and skills of relevant officials to detect and investigate cases of trafficking for labour exploitation.

Whilst noting the work of four mobile inspection groups composed of representatives of law enforcement agencies operating in high-risk areas like hotels and bars, GRETA is concerned by the high threshold required by the Permanent Group under the Interagency Council on Combating Trafficking in Human Beings to grant the status of victim of human trafficking. GRETA urges the authorities to take further steps to proactively identify victims of trafficking, including by guaranteeing that that Permanent Group's working procedures are victim-oriented, as well as increasing efforts to identify victims of trafficking for the purpose of labour exploitation and paying attention to detecting victims of trafficking amongst foreign workers, asylum seekers and persons placed in immigration detention centres.

GRETA welcomes the adoption of the new Child Protection Referral Mechanism, but considers that the Georgian authorities should strengthen their efforts in the areas of prevention of child trafficking, paying increased attention to the link between trafficking in children and the use of information and communication technologies.

Finally, GRETA considers that the Georgian authorities should ensure that all possible victims of trafficking are offered a recovery and reflection period and all the measures of protection and assistance during this period. Officials performing identification should be issued with clear instructions stressing the need to offer the recovery and reflection period as defined in the Convention, i.e. not making it conditional on the victim's co-operation and offering it to victims before formal statements are made to investigators.

I. Introduction

1. The Council of Europe Convention on Action against Trafficking in Human Beings (“the Convention”) entered into force for Georgia on 1 February 2008. GRETA’s first evaluation report¹ on Georgia was published on 15 September 2011, and the second evaluation report² on 3 June 2016.
2. On the basis of GRETA’s second report, on 23 May 2016 the Committee of the Parties to the Convention adopted a recommendation to the Georgian authorities, requesting them to inform the Committee within a one-year period of measures taken to comply with the recommendation. The report submitted by the Georgian authorities was considered at the 21st meeting of the Committee of the Parties (13 October 2017), and was made public.³ Subsequently, on 23 May 2017, the Georgian authorities submitted additional information as a follow-up to their report sent in reply to the Committee of the Parties’ recommendation.
3. On 15 February 2019, GRETA launched the third round of evaluation of the Convention in respect of Georgia by sending the questionnaire for this round to the Georgian authorities. The deadline for submitting the reply to the questionnaire was 28 June 2019 and the authorities’ reply was received on 2 July 2019.
4. In preparation of the present report, GRETA used the reply to the third-round questionnaire by the Georgian authorities, the above-mentioned report and additional information submitted by them in reply to the Committee of the Parties’ recommendation, and information received from civil society. An evaluation visit to Georgia took place from 4 to 8 November 2019 in order to hold meetings with relevant governmental and non-governmental actors, collect additional information and examine the practical implementation of adopted measures. The visit was carried out by a delegation composed of:
 - Mr Davor Derenčinović, President of GRETA;
 - Ms Ana Revenco, member of GRETA;
 - Ms Natacha De Roeck, Administrator in the Secretariat of the Convention.
5. During the visit, the GRETA delegation met the Deputy Minister of Justice, Mr Gocha Lordkipanidze, the Deputy Minister of Internal Affairs, Mr Vladimer Bortsvadze, and representatives of the Ministry of Justice, including the Secretariat of the Inter-Agency Council on Combating Trafficking in Human Beings, the Ministry of Internal Affairs, the Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Protection, the Ministry of Education, Science, Culture and Sports, the Ministry of Foreign Affairs, the General Prosecutor’s Office, the Social Service Agency, the State Fund for Protection and Support of Victims and Persons Affected by Trafficking, the State Legal Aid Service, and the National Tourism Administration. The delegation also met judges of the Batumi and Tbilisi City Courts, as well as representatives of the High Council of Justice. Further, a meeting was held with members of the Public Defender’s Office. In addition, the GRETA delegation met representatives of the Task Force for combating human trafficking in the Adjara region.
6. In the course of the visit, the GRETA delegation visited the shelter for victims of human trafficking and domestic violence in Batumi, the crisis centre in Tbilisi, as well as the Sarpi Border Check Point.
7. Separate meetings were held with representatives of non-governmental organisations (NGOs), lawyers and academics. The GRETA delegation also met representatives of the International Organization for Migration (IOM).

¹ <http://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680631c34>

² <http://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168065bf89>

³ <http://rm.coe.int/cp-2017-18-rr2-geo-en/1680726c08>

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

9. GRETA wishes to place on record the co-operation provided by the Georgian authorities and in particular by Ms Ketevan Sarajishvili and Ms Ana Ivanishvili from the Ministry of Justice, as well Ms Ketevan Khutsishvili from the Tbilisi State University.

10. The draft version of the present report was approved by GRETA at its 37th meeting (29 June – 3 July 2020) and was submitted to the Georgian authorities for comments. The authorities' comments were received on 16 September 2020 and were taken into account by GRETA when adopting the final report at its 39th meeting (18-20 November 2020). The report covers the situation up to 20 November 2020; developments since that date are not taken into account in the following analysis and conclusions. GRETA's conclusions and proposals for action are summarised in Appendix 1.

II. Overview of the current situation and trends in the area of trafficking in human beings in Georgia

11. Georgia remains primarily a country of origin of victims of trafficking in human beings (THB) and, to a lesser extent, a country of destination and transit. According to statistics provided by the Georgian authorities, 16 persons were identified as victims⁴ of THB in 2015, three in 2016, 11 in 2017, seven in 2018 and 29 (all of whom were Georgian children) in 2019. The total number of victims in the period 2015-2019 was 66, compared to 63 in the previous reporting period (2011-2014). Until 2018, the majority of the victims were women (25), including 13 foreign women (11 from Uzbekistan, trafficked for the purpose of sexual exploitation, and two from Ukraine, trafficked for the purpose of labour exploitation). The number of child victims during the reporting period, which was five until the end of 2018, increased considerably in 2019, with the identification by law enforcement agencies of two boys and four girls as victims of trafficking for the purpose of exploitation of begging, and 23 girls (aged from eight to 18 years) trafficked for the purpose of making child sexual abuse images.

12. According to a study published by IOM in 2016, the majority of Georgian victims of THB have originated from the regions of Kvemo Kartli and Adjara.⁵ Turkey, Iraq, United Arab Emirates and Cyprus are the main destinations for Georgian women trafficked for sexual exploitation, and Turkey is the main destination country for persons trafficked for the purpose of labour exploitation. Women are increasingly recruited by traffickers through social media, with promises to be employed in hospitals, beauty salons, restaurants or hotels, but are instead brought to disco clubs or bars and forced to provide sexual services. There are cases of deprivation of passports, restriction of free movement and communication, psychological coercion and blackmailing, as well as physical violence.

III. Developments in the legal, institutional and policy framework for action against human trafficking

13. The legislative framework for combating THB remains largely the same as described in the second GRETA report. On 17 May 2018, the Parliament of Georgia adopted legislative changes in the Criminal Code (CC), which came into force in June 2018. Pimping was introduced as a crime under Article 254, paragraph 1, of the CC, and engagement in prostitution (Article 253 of CC) and engagement of a child in making and selling of pornographic images (Article 255¹ of CC) were amended. The amendments were aimed, *inter alia*, at ensuring proper qualification of THB offences and facilitating the collection of evidence. They were also reflected in the Criminal Procedural Code (CPC) in the part dedicated to collection of evidence. Thus covert investigative actions were made possible also for the new crime of pimping.

14. Pursuant to Article 10 of the 2006 Law on Combating Trafficking (hereinafter "Anti-Trafficking Law"), the Interagency Council on Combating Trafficking in Human Beings (hereinafter "THB Council"), fulfils the role of co-ordinating national action against human trafficking. It continues to be chaired by the Minister of Justice and includes representatives from relevant ministries and agencies. After GRETA's second visit to Georgia, in 2016, the Head of the Human Rights Protection Secretariat of the Administration of the Government of Georgia became a member of the THB Council. The same NGOs and international organisations (with the addition of the International Centre for Migration Policy Development, ICMPD) as mentioned in the second GRETA report are invited to take part in meetings of the THB Council.⁶

⁴ As explained in GRETA's second report on Georgia, the official figures include both "statutory victims", i.e. persons identified as victims of trafficking by law enforcement authorities or the prosecution in the context of a criminal investigation, and persons granted the status of a victim of trafficking by the Permanent Group. Throughout the report the general term "victim" is used to cover both categories, unless there is a need to specify one or another category.

⁵ International Organization for Migration, *Needs Assessment: Counter-trafficking Response in Georgia*, p. 6, available at: https://publications.iom.int/system/files/pdf/counter_trafficking_georgia_en.pdf

⁶ See GRETA's second report on Georgia, paragraph 20.

15. The Secretariat of the THB Council is provided by the Public International Law Department of the Ministry of Justice of Georgia. It monitors the implementation of the National Action Plan on THB and draws up reports once a year. Three persons were working on THB issues in the Secretariat of the THB Council at the time of the visit.

16. Temporary thematic working groups are periodically set up by the THB Council. By way of example, a temporary working group developed the legal amendments to the CC mentioned in paragraph 13, based on an analysis of challenges observed at legislative and practical level. The National Action Plan against THB for 2019-2020 envisages the creation of an NGO platform on human trafficking under the THB Council. The Georgian authorities have indicated that they do not currently see the need for establishing an NGO platform on THB as the number of NGOs working on anti-trafficking issues in Georgia is limited and they are all already invited to participate in the THB Council.

17. The State Fund for the Protection and Assistance to Victims of Trafficking, which was established in 2006 in accordance with Article 9 of the Anti-Trafficking Law, is subordinated to the Ministry of Labour, Health and Social Protection. It remains responsible for the provision of support to victims of THB in Georgia, including through the provision of one-off compensation, and operates two shelters for victims of THB, in Tbilisi and Batumi, as well as five crisis centres, in Tbilisi, Kutaisi, Gori, Marneuli, and Ozurgeti (see paragraph 145). As of 1 February 2020, the Agency for State Care and Assistance for Victims of THB (hereafter "Agency for State Care") has been formed as the successor entity of the Social Service Agency's guardianship and custodianship service.

18. The Permanent Group under the THB Council remains the body competent to grant the status of victim of THB to persons who do not take part in criminal investigations, based on information provided by the mobile groups operated by the State Fund (see paragraph 33). It currently consists of five members from two international organisations (IOM and ICMPD⁷), as well as three NGOs (Georgian Young Lawyers' Association, Tanadgoma and Anti-Violence Network).⁸ Further, the number of special mobile groups set up under the State Fund to carry out the preliminary identification of victims of trafficking was increased from three to four.

19. Since the second evaluation by GRETA, the THB Council approved two National Action Plans, for 2017-2018 and 2019-2020. The current National Action Plan includes measures related to prevention, assistance of victims, prosecution, data collection, research and capacity building. A report on the implementation of the plan is published by the THB Council. However, there is no independent evaluation of the National Action Plans and GRETA has not been able to identify any research into THB conducted in the period of 2015-2018 (apart from studies on homeless children, which may be relevant for THB). The Georgian authorities have indicated that, upon the initiative of the Ministry of Justice and in close cooperation with ICMPD and with financial support of the EU, two independent experts (one Georgian and one foreign) have started evaluating the implementation of the National Action Plans for 2017-2018 and 2019-2020. The final version of the evaluation report was planned to be ready by the end of 2020 and would be taken into consideration during drafting the next action plan for 2021-2022. The National Rapporteur's function is assigned to the THB Council, rather than to an independent mechanism for monitoring the effectiveness of State measures against THB. GRETA notes that a continuous analysis of the key challenges, as well as the new types of threats and risks related to THB is necessary to ensure that new trends are identified, and that information obtained is used to adjust identification techniques to the new forms of exploitation. **GRETA considers that the Georgian authorities should examine the possibility of establishing an independent National Rapporteur or designating an already existing independent mechanism for monitoring the anti-trafficking activities of state institutions.**

⁷ Only IOM was represented in the Permanent Group at the time of the second evaluation.

⁸ There used to be four NGOs, but the NGO Civil Development Agency is no longer a member.

20. As part of the 2017 ratification process of the Council of Europe's Convention on Preventing and Combating Violence against Women and Domestic Violence ("Istanbul Convention"), various laws and regulations were amended to align domestic law with the Convention. The Action Plan for 2018-2020 on "Measures to be Implemented for Combating Violence against Women and Domestic Violence and Protection of Victims" was approved by Government Decree No. 175 on 11 April 2018.

21. While welcoming the attention given to combating violence against women, GRETA noted during the third evaluation visit to Georgia that less attention was being paid to combating trafficking in human beings. As a consequence, NGOs that used to be active in the anti-trafficking field had shifted their focus to domestic violence. **GRETA is concerned that trafficking in human beings has not been the subject of sufficient political attention in Georgia in recent years and stresses the importance for maintaining a strong focus on the fight against THB as an ongoing challenge, including through vigorous prevention, strengthened proactive identification of victims, and enhanced criminal justice response to THB for all forms of exploitation.**

IV. Access to justice and effective remedies for victims of human trafficking

1. Introduction

22. Victims of human trafficking, by virtue of their status as victims of crime and victims of human rights violations, have the right to access to justice and effective remedies for any harm committed against them. These rights must be guaranteed, in a gender- and age-sensitive manner, to all victims of trafficking subject to the jurisdiction of parties to the Convention, irrespective of their immigration status or presence on the national territory, and notwithstanding their capacity or willingness to co-operate in any criminal investigation.

23. The right to effective remedies is a reflection of the human-rights based approach underpinning the Convention. Regardless of whether a State is implicated in the trafficking or directly responsible for the harm, the positive obligations arising from international human rights law require States to facilitate and guarantee effective access to remedies if they have failed to take reasonable steps to prevent human trafficking, protect potential or actual victims of trafficking, and effectively investigate trafficking offences.⁹

24. According to the Basic Principles on the Right to an Effective Remedy for Victims of Trafficking in Persons,¹⁰ the right to an effective remedy is considered to include restitution,¹¹ compensation,¹²

⁹ *Rantsev v. Cyprus and Russia*, application no. 25965/04, judgment of 7 January 2010; *L.E. v. Greece*, application No. 71545/12, judgment of 21 January 2016; *Chowdury and Others v. Greece*, application No. 21884/15, judgement 30 March 2017; *S.M. v. Croatia*, application No. 60561/14, Grand Chamber judgment 25 June 2020.

¹⁰ UN General Assembly, Basic principles on the right to an effective remedy for victims of trafficking in persons, Annex to the Report by the Special Rapporteur on trafficking in persons, especially women and children, 28 July 2014, A/69/33797.

¹¹ Restitution includes restoration of liberty, including release of the victim from detention; enjoyment of human rights and family life, including reunification and contact with family members; safe and voluntary repatriation; temporary or permanent residence status, refugee status, complementary/subsidiary protection or third-country resettlement; recognition of the victim's legal identity and citizenship; restoration of the victim's employment; assistance and support to facilitate social integration or reintegration; return of property, such as identify and travel documents and other personal belongings.

¹² Compensation may cover damages for physical or mental harm; damages for lost opportunities, including employment, education and social benefits; reimbursement of costs of necessary transportation, child care or temporary housing; material damages and loss of earnings; moral or non-material damages; reimbursement of legal fees and other costs relating to the participation of the victim in the criminal justice process; reimbursement of costs incurred for legal, medical or other assistance.

rehabilitation,¹³ satisfaction¹⁴ and guarantees of non-repetition.¹⁵ All victims of trafficking require access to appropriate and effective remedies, starting with access to justice. The provision of effective remedies serves multiple purposes. The remedy of compensation, for instance, for any injury, loss or harm sustained, can provide critical support in victims' recovery and empowerment, help their social inclusion and prevent re-victimisation. The remedy of rehabilitation can similarly help in victims' recovery, as well as social inclusion. Of relevance in this respect is also the 1985 United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, which outlines the main steps to be taken to improve access to justice, and fair treatment, restitution, compensation and social assistance for victims of crime.¹⁶

25. The Convention provides specifically for the substantive right of victims of trafficking to compensation and legal redress, as well as for a number of procedural rights necessary to ensure access to these entitlements. These include the rights to be identified as a victim of trafficking, to be granted a recovery and reflection period, as well as a residence permit (to enable a victim to remain in the country and seek access to remedies), and to receive counselling, information, legal assistance and free legal aid. Another important procedural right is provided by the non-punishment provision of the Convention (Article 26), according to which victims of human trafficking must not be imposed penalties for their involvement in unlawful activities committed while they were being trafficked. Further, the Convention requires State Parties to enable the seizure and confirmation of the assets of traffickers, which could be used to fund State compensation schemes for victims.

26. Children need special support to access remedies, the best interests of the child being the primary consideration in all actions concerning trafficked children. The appointment of legal guardians to represent unaccompanied or separated children plays a vital role in enabling child victims of trafficking to access justice and remedies. Further, facilitating family reunification can be an important element of restitution.¹⁷

27. Civil society, including NGOs, trade unions, diaspora organisations and employer organisations, plays a vital role in enabling victims of THB to claim compensation and other remedies.¹⁸ In this context, reference should be made to the international projects COMP.ACT - European Action on Compensation for Trafficked Persons¹⁹ and Justice at Last - European Action for Compensation of Victims of Crime,²⁰ which aim to enhance access to compensation for trafficked persons.

¹³ Rehabilitation includes medical and psychological care, legal and social services, shelter, counselling and linguistic support, independently of the capacity or willingness of the victims to co-operate in legal proceedings.

¹⁴ Satisfaction includes effective measures aimed at the cessation of continuing violations; verification of the facts and full and public disclosure of the truth to the extent that such disclosure does not cause further harm or threaten the safety, privacy and other interests of the victims or their families; an official declaration or a judicial decision restoring the dignity, reputation and rights of the victim; public apologies; judicial and administrative sanction against the perpetrators.

¹⁵ Guarantees of non-repetition include ensuring the effective investigation, prosecution and sanctioning of traffickers; all measures necessary to protect victims from re-trafficking; providing or strengthening training of relevant officials; strengthening the independence of the judiciary; modifying practices that cause, sustain or promote tolerance to trafficking, including gender-based discrimination and situations of conflict and post-conflict; effectively addressing the root causes of trafficking; promoting codes of conduct and ethical norms for public and private actors; protecting legal, medical and other professionals and human rights defenders who assist victims.

¹⁶ United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, Adopted by General Assembly resolution 40/34 of 29 November 1985, available at: https://www.unicef-irc.org/portfolios/documents/472_un-declaration-crime.htm

¹⁷ UNODC, ICAT Issue Paper, Providing Effective Remedies for Victims of Trafficking in Persons, 2016, pp. 7-8. Available at: http://icat.network/sites/default/files/publications/documents/Ebook%20ENG_0.pdf

¹⁸ OSCE Compensation for Trafficked and Exploited Persons in the OSCE Region, 2008, pp. 48-53.

¹⁹ <http://www.compactproject.org/>

²⁰ <http://lastradainternational.org/about-lsi/projects/justice-at-last>

28. The private sector should also play a role in enabling access to, as well as providing, remedies for trafficked persons, in accordance with the UN 'Protect, Respect and Remedy' Framework and the United Nations Guiding Principles on Business and Human Rights.²¹ The role of businesses includes steps to ensure that their supply chains are free of trafficked labour, as well as the adoption and implementation of measures to facilitate access to remedies for victims for any harm that occurs. Further, businesses have the potential to help trafficked persons regain economic autonomy.²² States should therefore ensure that business enterprises implicated in human trafficking are held responsible and take steps to reduce barriers that could lead to a denial of access to remedies.

29. Because human trafficking is often a transnational crime, effective international co-operation is essential for fulfilling the obligations with regard to the right to justice and effective remedies. This includes co-operation in tracing and seizing criminal assets, and in returning confiscated proceeds for the purpose of compensation.

2. Right to information (Articles 12 and 15)

30. Victims who are no longer under their traffickers' control generally find themselves in a position of great insecurity and vulnerability. Two common features of victims' situation are helplessness and submissiveness to the traffickers, due to fear and lack of information about how to address their situation. Article 12, paragraph 1, sub-paragraph d, of the Convention provides that victims are to be given counselling and information, in particular as regards their legal rights and the services available to them, in a language that they understand. Further, pursuant to Article 15, paragraph 1, of the Convention, Parties must ensure that victims have access, as from their first contact with the competent authorities, to information on relevant judicial and administrative proceedings, in a language they can understand.

31. The information that victims of trafficking must be provided with deals with essential matters, including availability of protection and assistance arrangements, the various options open to the victim, the risks they run, the requirements for legalising their presence in the Party's territory, the various possible forms of legal redress, how the criminal-law system operates (including the consequences of an investigation or trial, the length of a trial, witnesses' duties, the possibilities of obtaining compensation from persons found guilty of offences or from other persons or entities, and the chances of a judgment being fully and effectively enforced). The information and counselling should enable victims to evaluate their situation and make an informed choice from the various possibilities open to them.²³

32. Many victims do not speak, or barely speak, the language of the country they have been brought to for exploitation. Ignorance of the language adds to their isolation and is one of the factors preventing them from claiming their rights. The provision of translation and interpretation, where needed, is an essential measure for guaranteeing access to rights, which is a prerequisite for access to justice. GRETA has stressed the need for ensuring the availability, quality and independence of interpreters.²⁴

²¹ United Nations Guiding Principles on Business and Human Rights, implementing the UN 'Protect, Respect and Remedy' Framework, Doc. A/HRC/17/31 (2011).

²² UNODC, ICAT Issue Paper, Providing Effective Remedies for Victims of Trafficking in Persons, 2016, pp. 8-9.

²³ See Explanatory Report on the Convention, paragraphs 160-162.

²⁴ See 8th General report on GRETA's activities.

33. Pursuant to Article 14 of the Anti-Trafficking Law, law enforcement agencies and the State Fund are to provide victims of THB with full information on relevant Georgian legislation. Investigators, prosecutors and judges, with the assistance of interpreters, inform presumed victims of THB, in their native language or in a language they understand, of their rights and legal status, as well as information on matters relating to the investigation and judicial proceedings. The mobile groups which carry out the preliminary identification of victims of THB use an identification questionnaire to interview victims and inform them about their rights. The questionnaire contains up to 30 questions related to labour exploitation (such as what kind of work the persons were offered, how much they were paid, in what conditions they worked, whether their personal documents were taken by the employer). Every year, the mobile groups of the Agency for State Care receive training and guidance on how to interview presumed victims, in co-operation with OSCE, ODIHR and ICMPD, and financial support of the EU. Further, the mobile groups of the Ministry of the Interior have detailed guidelines on interviewing presumed victims and Standard Operating Procedures with indicators for different types of exploitation.

34. The Georgian authorities have indicated that, upon suspicion of THB, law enforcement bodies immediately explain to the presumed victim that he/she has a right to enjoy a reflection period of 30 days, in order to consider whether he/she wishes to co-operate with law enforcement agencies. The victim is also informed that he/she has the right to address the Agency for State Care and benefit from the State-run services, such as shelter, crisis centre, free legal aid, medical and psychological assistance, rehabilitation and reintegration programmes. However, according to NGOs, presumed victims of THB are not systematically informed about the services that are available to them. Law enforcement bodies give to presumed victims information brochures with detailed information on what is human trafficking, what kind of services are available and whom they can contact in case of need. The brochures are available in Georgian, English and Russian. As for the Agency for State Care, information about the services is provided to presumed and identified victims upon arrival at the shelter/crisis centre. The beneficiary is given a contract and informed of the internal regulations. In case the victim does not understand Georgian or Russian, the agency provides an interpreter in a language he/she understands. The internal regulations of each shelter and crisis centre are also available on the website of the Agency for State Care.²⁵ Information leaflets on the services available, which exist in six languages, are also given to victims.

35. In its second report, GRETA recommended that the Georgian authorities provide interpretation during police interviews of possible victims of trafficking, where necessary. Pursuant to Article 53 of the CPC, an interpreter shall be called when a trial participant has no or insufficient command of the language of the criminal procedure and/or it is necessary to translate a text in the language of the criminal procedure. Every participant in the criminal proceedings who has no command of Georgian is provided with an interpreter at all stages of the proceedings, by the relevant body responsible for the stage of the proceedings. The Ministry of Internal Affairs has permanent service contracts with organisations which provides translation/interpretation. The Anti-Trafficking Law also provides that victims should be informed of their rights, obligations and legal status, as well as regarding the progress of the investigation and judicial proceedings, in a language they understand. Interpretation is provided by the Agency for State Care, and is included in the internal regulations of the shelters and crisis centres.

36. GRETA considers that law enforcement officers, including border control staff, and members of the mobile groups performing preliminary identification, should undergo continuous training and be provided with instructions on how to properly explain to victims of THB their rights and systematically refer them to the State Fund or specialised NGOs for support and assistance.

²⁵ <http://atipfund.gov.ge/>

3. Legal assistance and free legal aid (Article 15)

37. Article 15(2) of the Convention obliges Parties to provide in their internal law for the right of victims of trafficking to legal assistance and free legal aid. As court and administrative procedure is often very complex, legal assistance is necessary for victims to be able to claim their rights. It is for each Party to decide the requirements for obtaining such free legal aid. Parties must have regard not only to Article 15(2) of the Convention, but also to Article 6 of the ECHR. Even though Article 6(3)(c) of the ECHR provides for free assistance from an officially appointed lawyer only in criminal proceedings, European Court of Human Rights case-law²⁶ also recognises, in certain circumstances, the right to free legal assistance in a civil matter on the basis of Article 6(1) of the ECHR. Thus, even in the absence of legislation granting free legal assistance in civil matters, it is for the courts to assess whether, in the interest of justice, an applicant who is without financial means should be granted legal assistance if unable to afford a lawyer.

38. GRETA's reports highlight the value of a lawyer being appointed as soon as there are reasonable grounds for believing that a person is a victim of trafficking, before the person makes an official statement and/or decides whether to co-operate with the authorities. Early access to legal assistance is also important to enable victims to take civil actions for compensation and redress.²⁷

39. The State Fund (since February 2020, the Agency of State Care) offers free legal consultation and free legal aid to presumed victims and identified victims of THB. It has 12 lawyers working on THB issues, including four working at the central office and seven working at the crisis centres and shelters. According to Article 6, paragraph 2(b-1),²⁸ of the Regulations of the State Fund, the Director of the State Fund provides the staff with the mandate to protect the beneficiaries' interests in the relevant investigative and/or judicial institutions. Legal services include representation in courts and before law enforcement agencies, as well as the preparation of civil cases, including for claiming compensation from perpetrators, and support in claiming state compensation. The services are provided regardless of the person's immigration status, form of exploitation or age, and are free of charge.

40. Apart from the State Fund, the State Legal Aid Service also provides free-of-charge legal consultations to victims of THB and free legal aid to child victims at all stages of the criminal proceedings. There is a Memorandum of Understanding between the State Fund and the State Legal Aid Service.²⁹ According to the Georgian authorities, in the period 2015-2019, 28 statutory victims of THB benefited from legal consultations and 11 from legal aid provided by the State Fund (currently Agency for State Care); in the same period, one victim of THB received a legal consultation from the State Legal Aid Service. Representation in civil and administrative proceedings is provided by the State Legal Aid Service when the person is insolvent and the complexity of the case justifies the provision of legal aid. An exception is made for persons in respect of whom the court is to decide whether they should benefit from support, asylum seekers and persons seeking international protection whose claims are challenged in court, and women victims of violence.

41. According to the Georgian authorities, lawyers of the State Fund (currently Agency for State Care) and the Legal Aid Service undergo annual training on THB issues. This commitment is enshrined in the National Action Plan on Combating THB, and training is planned for 2020. The authorities have indicated that all 12 lawyers of the Agency for State Care have been trained on THB issues since 2015, and that training has also been provided to lawyers of the State Legal Aid Service, with the support of international organisations and foreign donors.

²⁶ *Airey v. Ireland* judgment, 9 October 1979.

²⁷ See 8th General report on GRETA's activities.

²⁸ Since 29 January 2020, pursuant to Article 5, paragraph g, of Government Decree No. 58.

²⁹ The number of the legal consultations provided by the Legal Aid Service increased from 4,765 in 2008 (to 31,110 in 2018).

42. **GRETA considers that the Georgian authorities should take further steps to ensure trafficking victims' access to legal assistance and free legal aid. Actors performing victim identification should appoint a lawyer as soon as there are reasonable grounds for believing that a person is a victim of human trafficking, before the persons concerned have to decide whether or not they want to co-operate with the authorities and/or make an official statement.**

4. Psychological assistance (Article 12)

43. Human trafficking and exploitation may have serious psychological and physical consequences for the victims, including mental health problems and loss of self-esteem. Psychological assistance is needed to help victims of trafficking overcome the trauma they have been through and achieve a sustained recovery and social inclusion. Some victims require long-term therapeutic attention due to the violence they have suffered. Every victim of trafficking should have a clinical assessment tailored to include an evaluation of their particular readiness for therapy conducted by an experienced clinician.³⁰

44. Pursuant to Article 17, paragraph 2, of the Anti-Trafficking Law, victims of trafficking are entitled to, *inter alia*, psychological rehabilitation. As mentioned in the second GRETA report, the Internal Regulation of the Shelter for Victims of Human Trafficking, approved by Order No. 07-70 of 29 April 2014, includes psychological assistance (individual and group therapy).³¹ Psychological-social assistance covers psychological counselling, assistance and/or rehabilitation, crisis intervention, emotional and psychological support, and individual and group work with the beneficiary.

45. When a victim of human trafficking starts benefiting from State Fund services, an individual rehabilitation/reintegration plan (approved by the Director of the State Fund) is developed by the relevant service providers (shelters or crisis centres). Rehabilitation is understood as recovery of physical and mental health, free medical and psychological assistance provided in a shelter or another institution. The victims' needs identified by the multidisciplinary team (lawyer, social worker, psychologist, nurse) of the shelter and/or crisis centre are included in the plan. In December 2017, the State Fund provided guidance on victim social and psychological rehabilitation to staff. In total, eight psychologists are working in the shelters and crisis centres of the Agency for State Care. The psychologists are trained annually by Georgian or foreign experts. The services are financed by the Agency for State Care.

46. Psychological-social assistance is available at shelters and crisis centres. In case the victim does not want to stay at the shelter or crisis centre, he/she can be provided with assistance remotely (for example, in the period of pandemic caused by Covid-19, the psychological assistance of the Agency for State Care was available remotely).

5. Access to work, vocational training and education (Article 12)

47. Article 12, paragraph 4, of the Convention requires State Parties to enable victims of trafficking who are lawfully present in the country to have access to the labour market, vocational training and education. An important element of the recovery and successful social inclusion of trafficked persons is their economic empowerment, which can be achieved through job placement, microbusinesses and social enterprises.³² GRETA has stressed the need to develop public-private partnerships with a view to creating appropriate work opportunities for victims of trafficking.³³

³⁰ OSCE, *Trafficking in Human Beings Amounting to Torture and Other Forms of Ill-Treatment* (2013), Vienna, p.115.

³¹ GRETA's second report on Georgia, paragraph 110.

³² Rebecca Surtees, NEXUS Institute, *Re/integration of trafficked persons: supporting economic empowerment*, Issue paper No. 4, King Baudouin Foundation (2012).

³³ See 8th General report on GRETA's activities.

48. The Georgian authorities informed GRETA that in 2015, with the support of IOM, two victims of THB assisted by the State Fund set up a small business of buying and selling food products. In 2016, one female victim of THB was recruited in a bank's cleaning service with the support of the State Fund. In 2017, two Ukrainian female victims of THB were employed in the field of construction as per their background (interior decorating), also with the support of the State Fund.

49. Despite some positive trends in the economy, Georgia continues to suffer from unemployment, gaps in social protection and poor employment and entrepreneurial prospects for young people. Youth unemployment stands at 30.8%, which is considerably higher than the overall unemployment rate in the country (around 12%).³⁴ The ILO is currently implementing a project on improving labour market institutions and work opportunities in Georgia (2017-2021). Its outcomes include enforcement of labour laws and international labour standards, youth entrepreneurship, capacity building and institution strengthening, and promotion of responsible business practices. The project had not done anything at the time of writing to assist victims of THB, but can provide support if needed. According to the Georgian authorities, promotion of employment and active labour market policy are priorities for the Georgian Government. The State Employment Support Agency (operational since 1 January 2020) co-operates with the Agency for State Care to enable victims of trafficking and domestic violence to be well informed and involved in existing state programmes. All beneficiaries referred by the Agency for State Care are being periodically informed by text message about employment promotion activities. The functions of the State Employment Support Agency include implementation of state employment programmes, and co-operation with employers, employers' organisations and private employment agencies to effectively provide intermediary, information and advisory services to the job seekers. The Agency will be developing proposals for the regulation of labour migration and the improvement of state policy and legislation in the field of labour migration, providing support and promoting employment of labour migrants, and the preparation of proposals on labour migration regulation in Georgia.

50. **GRETA considers that the Georgian authorities should strengthen effective access to the labour market for victims of THB, as well as their economic and social inclusion through the provision of vocational and language training and job placement, including the promotion of micro-businesses, social enterprises and public-private partnerships, with a view to creating appropriate work opportunities for victims of trafficking.**

6. Compensation (Article 15)

51. Article 15(3) of the Convention establishes a right of victims to compensation. The compensation is pecuniary and covers both material injury (such as the cost of medical treatment) and non-material damage (the suffering experienced). However, even though it is the trafficker who is liable to compensate the victim, in practice there is rarely full compensation whether because the trafficker has not been found, has disappeared or has declared him/herself bankrupt. Article 15(4) therefore requires that Parties take steps to guarantee compensation of victims. The means of guaranteeing compensation are left to the Parties, which are responsible for establishing the legal basis of compensation, the administrative framework and the operational arrangements for compensation schemes. In this connection, Article 15(4) suggests setting up a compensation fund or introducing measures or programmes for social assistance to, and social integration of, victims that could be funded by assets of criminal origin. Of relevance in this respect is the European Convention on the Compensation of Victims of Violent Crimes, pursuant to which when compensation is not fully available from other sources the State shall contribute to compensate those who have sustained serious bodily injury or impairment of health directly attributable to an intentional crime of violence, as well as the dependents of persons who have died as a result of such crime, even if the offender cannot be prosecuted or punished.

52. Compensation fulfils multiple purposes: payment of reparation for injury, loss or harm caused by the offender, access to justice, empowerment of victims, as well as being seen as a form of punishment and deterrence of traffickers. As such, compensation plays a crucial role in the fight against human trafficking, not only as an instrument of restorative justice, but also by way of prevention and recognition by States of their failure to meet their human rights obligations.

53. Victims often leave the country where they were exploited at the end of the criminal proceedings. This creates obstacles to making civil claims for compensation, which in addition are associated with a number of other barriers, such as high costs, unavailability of free legal aid and victim-support services, as well as the claimant bearing the burden of proof of the amount of the damage. State parties should therefore consider adopting a procedure through which victims are entitled to obtain a decision on compensation by the offender as part of the criminal trial, within a reasonable time.

54. Georgian legislation concerning compensation has not changed since the second evaluation round. Pursuant to Article 16 of the Anti-Trafficking Law, victims and persons affected by human trafficking have the right to claim compensation for moral, physical or property damages incurred due to having been trafficked or otherwise harmed by the crime of trafficking. If victims and persons affected by THB cannot be compensated by the perpetrators, a one-off compensation shall be paid to them from the State Fund (see paragraphs 60-61).

55. Compensation through criminal proceedings is not allowed under Georgian legislation,³⁵ but compensation from the perpetrator can be granted to the victim of any type of crime, including human trafficking, through civil proceedings (see paragraph 56). Pursuant to Article 81 of the CPC, "d) the income/property obtained in a criminal manner shall be used to compensate the damage inflicted as a result of a crime, or to indemnify procedural costs after the damage has been indemnified, or shall be transferred to the State Budget of Georgia if the person who has incurred the damage has not been identified".³⁶ The Georgian authorities have indicated that in the course of the investigation, maximum efforts are made to detect and freeze property obtained by the defendant as a result of the crime, in order to enable the victims to claim damages through civil proceedings.

56. Under Article 309 of the Civil Procedure Code of Georgia, a victim can claim damages through a civil court in cases where the trafficker has been convicted. As the claims for damages are made through civil proceedings, the prosecutor is not involved.

57. The Georgian authorities informed GRETA that there were no specific criteria and/or models for calculating the amount of compensation for human trafficking. The court is entitled to assess compensation based on and within the scope of the claims of the parties (claimants). Therefore, in order to determine the amount of compensation, the court is authorised to take a case-by-case approach and consider the specific circumstances of each case, i.e. the age of the victim and person affected by the crime of human trafficking (whether he/she is a child or not), the duration of the crime, types of exploitation used.

58. Law No. 248 on Enforcement Proceedings foresees the procedures and conditions for the enforcement of acts adopted by (national and international) courts and other judicial or administrative entities, including on compensation of moral, physical or property damage from the perpetrators. In this case, enforcement is carried out by the National Bureau of Enforcement, operating under the Ministry of Justice.

³⁵ Although Article 16 of the Anti-Trafficking Law from 2006 still includes the right to claim compensation through criminal proceedings, it was implicitly abolished with the entry into force of a new CPC in 2010. An amendment to update Article 16 is currently pending.

³⁶ Unofficial translation.

59. To date, only three victims of THB in Georgia have received compensation from perpetrators through civil proceedings. In a case of THB for the purpose of sexual exploitation (case No. 1/3420-17, see paragraph 78 for more details) property was identified to have been obtained in a criminal manner and during the proceedings it was seized from the defendant. Subsequently, the total seized property was allocated to the victims. On 29 March 2019, according to the decision of the Tbilisi Court of Appeals, 5,615 USD and 200 GEL seized as a result of a search of a bar-type place rented by the trafficker were distributed to the three victims of human trafficking. GRETA is concerned by the low number of compensation awards from the perpetrators, which is also linked to failure to secure the freezing and seizure of criminal assets.

60. The conditions for receiving compensation from the State Fund are defined in the Rules and Procedures for Granting Compensation from the State Fund. According to Article 3(3) of these rules, compensation is granted when it is not possible to claim compensation for physical, moral and material damages in accordance with civil and criminal legislation, if the alleged perpetrator is not identified and detained within three months after the investigation has been launched, or in case the compensation order against the perpetrator has not been enforced within six months of the court decision. In such cases, a one-off payment of 1,000 GEL (€314) is made by the State Fund. Victims may obtain compensation regardless of their co-operation with the law enforcement authorities. To claim compensation from the State Fund, the person is required to present documentation proving the impossibility of receiving compensation from the perpetrator, along with the proof of being a victim or a "statutory" victim of THB. The Georgian authorities have indicated that because it became evident that the conditions for granting state compensation prevented victims from effectively obtaining such compensation, the THB Council drafted amendments to the Anti-Trafficking Law. The aim of the amendments is, *inter alia*, to ensure that granting of state compensation is possible immediately after obtaining the official status of victim or "statutory" victim, at the victim's request, and without the requirement to apply to the court for compensation by the trafficker. The draft amendments have been submitted to Parliament with a view to their adoption. **GRETA would like to be kept informed of the amended provisions.**

61. Pursuant to Article 9 of the Anti-Trafficking Law, the purpose of the State Fund is to pay compensation to victims and persons affected by human trafficking and to fund activities for their protection, support and rehabilitation. The State Fund is supposed to be financed through: a) state budgetary resources; b) resources from international organisations; c) contributions from legal and natural persons; d) other sources as foreseen by the legislation of Georgia. According to Article 13(5) of the Anti-Trafficking Law and Article 52 of the CC, property that was obtained through illegal means can be confiscated. However, the Anti-Trafficking Law does not foresee the use of confiscated assets from criminal proceedings to finance the State Fund.

62. GRETA was informed that in 2015, the State Fund awarded one-off compensations to 18 victims of THB, to two victims in 2016, to one victim in 2017, and also to one victim in 2020. GRETA is concerned by the decrease in the number of State compensation awards to victims of THB.

63. GRETA concludes that the State compensation system is ineffective and not accessible to many victims. This may be due to the high threshold set by the Permanent Group for identifying victims of THB among persons who do not co-operate with law enforcement (see paragraph 137).

64. **GRETA urges the Georgian authorities to take vigorous measures to facilitate and guarantee access to compensation for victims of trafficking, including by:**

- **introducing a procedure through which victims are entitled to obtain a decision on compensation from the offender as part of the criminal trial and requiring courts to state, where applicable, why compensation is not considered;**
- **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 building the capacity of legal practitioners to support victims to claim compensation and by guaranteeing effective access to legal assistance and free legal aid;**
- **including compensation in existing training programmes for law enforcement officials and the judiciary;**
- **encouraging prosecutors and judicial authorities to make full use of the legislation on the freezing and forfeiture of offenders' assets and international co-operation to secure compensation to victims of THB;**
- **reviewing the procedure for awarding one-off compensation by the State Fund with a view to ensuring that it is not conditional on failure to obtain compensation from the perpetrator through court proceedings, and ensuring that in practice it does not depend on the victims' co-operation in the law enforcement authorities;**
- **increasing the amount of the one-off compensation payment with a view to meeting the reintegration needs of victims, and using confiscated criminal assets to finance the State Fund.**

7. Investigations, prosecutions, sanctions and measures (Articles 22, 23 and 27)

65. One of the purposes of the Convention is to ensure the effective investigation and prosecution of THB. Article 27(1) of the Convention establishes that the investigation or prosecution of THB offences must not depend on victims' reports. The aim is to avoid traffickers' subjecting victims to pressure and threats in attempts to deter them from complaining to the authorities. Pursuant to Article 27(2), if the competent authority with which the complaint has been lodged decides that it does not itself have jurisdiction in the matter, then it must forward the complaint without delay to the competent authority of the Party in whose territory the offence was committed. Further, under Article 27(3), each Party shall ensure to non-governmental organisations and other associations which aims at fighting trafficking in human beings or protection of human rights, the possibility to assist and/or support the victim with his or her consent during criminal proceedings concerning the offence of trafficking in human beings.

66. Article 23 requires Parties to match their action to the seriousness of the offences and lay down criminal penalties which are "effective, proportionate and dissuasive". Further, paragraph 3 of Article 23 places a general obligation on Parties to adopt appropriate legal instruments enabling them to confiscate or otherwise deprive offenders (e.g. by so called "civil" confiscation) of the instrumentalities and proceeds of human trafficking criminal offences. As trafficking in human beings is nearly always engaged in for financial profit, measures depriving offenders of assets linked to or resulting from the offence are an effective anti-crime weapon. The confiscation of criminal assets is crucial for reinforcing the effect of the penalty, as well as ensuring the payment of compensation to the victim. It requires as a prerequisite to detect, identify and seize the illegal assets at the time of the criminal investigations and to have adequate

procedures to do so. The identified, seized and confiscated illegal profits of trafficking should be used to compensate victims of trafficking, directly or through a victim compensation fund.

67. Further, Article 22 of the Convention requires Parties to ensure that legal persons can be held liable for human trafficking offences committed for their benefit by any natural person, acting either individually or as part of an organ of the legal person who has a leading position within the legal person. Liability under this article may be criminal, civil or administrative.

68. In its second evaluation report, GRETA urged the Georgian authorities to take measures to ensure that THB cases are investigated proactively, prosecuted successfully, and result in effective, proportionate and dissuasive convictions, including by further developing the training and specialisation of investigators, prosecutors and judges, making greater use of special investigation techniques, ensuring, where possible, that THB charges are not re-qualified as other offences carrying lighter penalties, and excluding THB from the plea-bargaining procedure.

69. The penalties for THB envisaged in Georgian law range from seven to 20 years' imprisonment for the basic offence of trafficking in adults, and from eight years to life imprisonment for child trafficking. Further, Article 143³ of the CC imposes criminal liability for using the services of a victim of human trafficking. The penalties for this crime range from three to 15 years' imprisonment. However, there have been no convictions under this provision and according to prosecutors met by GRETA, it is difficult to apply because of the difficulty to prove that the perpetrator had prior knowledge that the person providing services was trafficked.

70. According to data provided by the Georgian authorities, 18 investigations were launched into THB in 2015, 20 in 2016, 21 in 2017 and 21 in 2018. The main form of exploitation was sexual (54 of all investigated cases), followed by labour exploitation (12 cases concerning adults and nine cases concerning children, primarily for the purpose of exploitation of begging). In the period 2015 - May 2019, a total of 17 investigations concerning alleged child trafficking were initiated (seven of them concerned sale of children³⁷ and 10 concerned labour exploitation, including exploitation of begging). The Georgian authorities have specified that, pursuant to Article 101 of the CPC, the Ministry of Internal Affairs starts an investigation where it has information about, and suspicion of, human trafficking. However, on many occasions, the evidence collected is not sufficient to sustain charges of THB. For example, the police sometimes receive information that individuals were sexually exploited at a certain facility; however, the investigation determines that the offence is not THB, but rather providing an area for prostitution or pimping. As a result, the number of investigations of THB cannot be equal to the number of persons identified as victims of THB.

71. The Georgian authorities informed GRETA that four cases of THB involved plea bargaining in 2015-2018.

72. As regards convictions, three persons were convicted of THB in 2015, four in 2016 (including three for child trafficking and one for THB for the purpose of sexual exploitation), two in 2017 (both for THB for sexual exploitation), and six in 2018 (including four for THB for sexual exploitation and two for child trafficking). Of the 15 convicted persons, eight were Georgian and the others were from Central Asian countries. Sentences ranged from three to 15 years' imprisonment.

73. According to the Georgian authorities, in general, the length of criminal proceedings does not exceed a reasonable period of time,³⁸ and the case management system allows for a proper allocation of THB-related cases, as reflected in the pilot project at Tbilisi City Court.

³⁷ The sale of two children was organised by medical staff at the hospital in Rustavi. Three persons were convicted in this case, two of whom were sentenced to five years' imprisonment and one for three years' imprisonment.

³⁸ According to the Georgian authorities' reply to GRETA's questionnaire, the analysis of THB cases for the period from 2012 to June 2019 shows that the average time of court proceedings was six months.

74. On 19 December 2017, the THB Council approved the revised Guidelines for Law Enforcement on the investigation and prosecution of THB cases and handling of victims of THB. The main aim of the revision was to reflect the legal amendments (see paragraph 13) and current trends of human trafficking.

75. Training sessions on the legislative changes were provided to 55 investigators and prosecutors in July 2018. Since the new offence of pimping came into force, investigations started on seven alleged cases of pimping, and nine persons were prosecuted, two of whom have been convicted.

76. In the National Action Plan for Combating THB for 2019-2020, objectives 4.1. and 4.2 focus on the implementation of best practices and methodologies in the proactive investigation and approaches, including in THB cases. Objective 5 focuses on enhancing the skills of professionals working on THB, such as prosecutors, victim-witness co-ordinators, police officers, judges and their assistants. GRETA was informed about a forthcoming first joint training of labour inspectors, financial police, prosecutors and investigators on financial aspects of THB investigations. GRETA notes that there is scope for improvement when it comes to financial investigations, including to facilitate the compensation awarding for victims from perpetrators. GRETA was informed by the Georgian authorities that a training on financial investigations, involving an expert from the United Kingdom, was attended by some 25 investigators. On 25-27 November 2019, in close co-operation with IOM, a training session on financial investigations in THB cases was delivered by a British expert in Tbilisi, with 25 participants (investigators, prosecutors, staff of the Financial Investigation Unit of the Ministry of Finances and the Georgian Financial Monitoring Service). This was the first such training event and the Georgian authorities acknowledge that the financial aspects of THB investigations are crucial and that this direction needs to be developed through more training and the taking of effective measures.

77. As mentioned in GRETA's second evaluation report, pursuant to Article 12 of the CC, THB is considered a crime of high gravity, and investigations into this offence warrant the use of special investigation techniques.³⁹ The use of special investigation techniques is regulated by the CPC. Special investigation techniques have reportedly been used more extensively in THB cases during the reporting period (for example, see case No. 1/3420-17 below). This is crucial to ensure that evidence is obtained as early as possible in the investigation.

78. The Human Rights Department of the Ministry of Internal Affairs⁴⁰ has been given the task of overseeing the investigation of certain crimes, including human trafficking. Ten persons work in this department; recently they have set up regional units.

³⁹ See paragraph 173 of the second GRETA report.

⁴⁰ Renamed the Department of Human Rights Protection and Quality Monitoring in 2019.

Case No. 1/3420-17

Charges: On 3 April 2017, the Ministry of Internal Affairs started investigating a case of THB for sexual exploitation of three Georgian women, allegedly committed by two Georgian citizens (one man and one woman). The investigation was initiated under Article 143¹, paragraph 3, Sub-section "b" (THB against two or more people) and paragraph 4, subsection "a" (committed by an Organised Group).

Facts: In June 2016, a Georgian woman rented a bar-type place near a road. The woman, along with her male friend, planned to commit human trafficking. In October and November 2017, they deceived three victims by promising them good working conditions and accommodation. Until May 2017, the three victims were sexually exploited, subjected to psychological violence and threats, and kept in slavery-like conditions. The perpetrators kept all the money paid for the sexual exploitation of the victims. The female trafficker controlled the bar area, made sure that the free movement of victims was restricted, and kept the victims in submission by claiming that they had debts to pay her. The male trafficker provided the transportation of the victims to the clients and had constant surveillance and control over them, so the victims were not able to move freely. He also checked that victims would go back to the female trafficker's place after they had left their clients. He obliged the victims to pay for his taxi services.

Covert investigative actions were carried out, including wiretapping and video-audio recording, during which evidence was found showing the victims to be in unbearable conditions. Victims and witnesses were interviewed.

As part of the criminal investigation, the bar area was searched, and a money box was found, in which the female trafficker forced the victims to put a certain amount of money earned from their clients. 5,615 USD and 700 GEL (the equivalent of a total of €5,366) were found, which, according to the decision of the Tbilisi City Court, will be equally distributed to the victims, in order to compensate them for the damage caused by the crime.

Conviction: In 2018, the Georgian man was sentenced to six years and six months' imprisonment and the Georgian woman was sentenced to 15 years' imprisonment. The three women were granted the status of victims and provided with legal assistance. Two were accommodated in the Tbilisi shelter. On 29 March 2019, by decision of the Tbilisi Court of Appeals, 5,615 USD and 200 GEL seized as a result of a search of a bar-type place rented by the trafficker were distributed to the victims.

Child trafficking for the purpose of production/distribution of pornographic materials⁴¹

As a result of jointly held intensive investigative activities between officers of the Central Criminal Police Department of the Ministry of Internal Affairs of Georgia, the General Prosecutors' Office, Europol and law enforcement agencies of the United States of America and Australia, a network was revealed in September 2019, involved in child trafficking and production/distribution of pornographic materials. Consequently, 11 members of the organised criminal group were arrested.

The investigation revealed that citizens from the USA and Australia, assisted by Georgian accomplices, arranged photo studios in rented apartments located in Tbilisi and produced pornographic images of children. The organisers of the criminal group paid the parents 500 - 3,000 GEL (€156 - 940) in exchange for taking photos. The payment was made by cash or through bank transaction. The investigation also established that a US citizen used to cash the proceeds from illegal activities via ATMs located in various shopping centres of Tbilisi.

As a result of searches, the police seized as material evidence cameras, computer equipment, as well as images and videos, disks and memory cards. Child victims were provided with appropriate psycho-social assistance.

An investigation was opened under Article 255, paragraph 3, of the CC, and Article 143¹, sub-clause "b" of paragraph 2, sub-clause "c" of paragraph 3, and sub-clause "a" of paragraph 4 of the CC, on the production or selling of pornographic images of children and trafficking by an organised group against two or more children. On 30 January 2020, the Tbilisi City Court started the trial.⁴² Subsequently, 23 individuals were prosecuted for child trafficking for the purpose of production/distribution of pornographic materials. There were two prosecutions: in one case there were 20 defendants (one U.S. citizen and 19 Georgian citizens) and in the other, there were three defendants (one Australian citizen and two Georgian citizens). All 23 defendants were found guilty as charged by Tbilisi City Court.

79. GRETA notes that the number of convictions for human trafficking in Georgia remains low, and there have been no convictions for trafficking for the purpose of labour exploitation. Further, GRETA is concerned by the use of plea bargaining in THB cases. GRETA stresses that failure to convict traffickers undermines efforts to combat THB and guarantee victims' access to justice. Human trafficking cases require significant investment to ensure that there is no over-reliance on vulnerable victims, and that those benefiting from the exploitation are identified and punished, including through following the money flows and online activity and engaging in transnational co-operation.

80. GRETA considers that the Georgian authorities should take further steps to ensure that human trafficking offences for all forms of exploitation are proactively and promptly investigated across Georgia, making use of special investigation techniques and financial investigations in order to gather evidence and not rely exclusively on testimony by victims or witnesses.

⁴¹ <https://police.ge/en/shinagan-saqmeta-saministrom-arasrultslovnebis-pornografiis-ukanonod-damzadeba-gasaghebisa-da-trefikingis-braldebit-organizebuli-danashaulebrivi-djqufis-11-tsevri-daakava/12975>

⁴² <https://www.interpressnews.ge/ka/article/583056-arasrulclovanta-pornograpiis-damzadeba-shenaxva-gasagebis-sakmis-arsebiti-qanxilva-icqeba> (in Georgian).

81. **Further, GRETA urges the Georgian authorities to take additional measures to ensure that THB cases lead to effective, proportionate and dissuasive sanctions and are not re-qualified as other offences which carry lighter penalties and deprive victims of THB of access to protection, support and compensation. If an alternative charge is preferred in THB cases, this should be recorded and monitored by the Prosecutor's Office. The plea-bargaining procedure should be used only exceptionally in human trafficking cases, subject to appropriate safeguards, where the reduction of a sentence is clearly outweighed by the advantages offered by the plea agreement (these advantages being indicated in the judicial decision approving the agreement) and the agreement is not in any way detrimental to the rights of the victims, including their access to compensation.**

8. Non-punishment provision (Article 26)

82. Pursuant to Article 26 of the Convention, Parties must provide for the possibility of not imposing penalties upon victims of THB for their involvement in unlawful activities, to the extent that they have been compelled to do so. As previously stressed by GRETA, the criminalisation of victims of THB not only contravenes the state's obligation to provide services and assistance to victims, but also discourages victims from coming forward and co-operating with law enforcement agencies, thereby also interfering with the state's obligation to investigate and prosecute those responsible for THB.⁴³ Furthermore, GRETA has noted that the absence of a specific provision on the non-punishment of victims of trafficking entails a risk of differential treatment, depending on the prosecutor in charge of the case.

83. As already explained in the second GRETA report, pursuant to Article 15 of the Anti-Trafficking Law, victims of THB are not subject to liability for violations of Article 344 (illegal crossing of Georgian border) and Article 362 (use of false documents) of the CC, and Article 172³ and Article 185 of the Code of Administrative Offences. Nor shall they be held liable for participating in illegal acts, if they were compelled to do so because of their being victims of human trafficking.⁴⁴ Therefore, according to the Georgian authorities, even though Article 15 of the Anti-Trafficking Law refers only to some illegal acts, the last sentence ensures that victims of THB are released from liability for participating in any illegal act, if they were compelled to do so because of their being victims. Paragraph 2 of Article 15 specifies that the provisions of the first paragraph shall apply to offences committed by persons because of their being victims human trafficking before they have been granted the status of victims.

84. By way of example, the Georgian authorities indicated that in 2018, the Ministry of Internal Affairs conducted an investigation on the sexual exploitation of two Georgian women. The women were granted the status of victims and were released from administrative liability envisaged for prostitution by Article 172³ of the Code of Administrative Offences.

85. **GRETA considers that the Georgian authorities should develop guidance and training for police officers and prosecutors on the non-punishment provision.**⁴⁵

⁴³ See 2nd General report on GRETA's activities.

⁴⁴ The latest version of the Anti-Trafficking Law in English is available at: <https://matsne.gov.ge/en/document/view/26152?publication=9>.

⁴⁵ See OSCE, Policy and legislative recommendations towards the effective implementation of the non-punishment provision with regard to victims of trafficking, 2013, available at: <https://www.osce.org/secretariat/101002?download=true>

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

86. Under Article 28 of the Convention, Parties must take the necessary measures to provide effective and appropriate protection from potential retaliation or intimidation to victims and witnesses of human trafficking, as well as to members of civil society organisations supporting victims during criminal proceedings and, where appropriate, to victims' family members. Intimidation of victims and witnesses is nearly always aimed at suppressing evidence against defendants. Effective protection can be of various types (physical protection, relocation, identity change) and depends on the assessment of the risks that victims and witnesses run. In addition, Article 28(3) provides that a child victim shall be afforded special protection measures, taking into account the best interests of the child. Regarding the period during which the protection measures are to be provided, the Convention aims in a non-exhaustive manner at the period of investigation and of the proceedings or the period following them. The period in which protection measures have to be provided depends on the threats to the persons concerned. Moreover, because trafficking in human beings is often international and some countries are small, Article 28(5) encourages Parties to enter into agreements or arrangements with other countries so as to implement Article 28.

87. Further, Article 30 of the Convention requires Parties to adapt their judicial procedure so as to protect victims' privacy and ensure their safety, including special protection measures for child victims. While the measures provided for in Article 28 have to do with extra-judicial protection, the measures referred to in Article 30 are concerned with the procedural measures to be introduced. The following means can be used, in accordance with the European Convention on Human Rights and the case-law of the European Court of Human Rights, to achieve the objectives of Article 30: non-public hearings, audio-visual technology, recordings of testimony, and anonymous testimony.

88. Article 13 of the Anti-Trafficking Law states that closed hearings may be held, and special protection measures taken in respect of victims of trafficking. Pursuant to Article 67 of the CPC, special protection measures are to be provided for participation in criminal procedures in special circumstances, including for child victims or witnesses. Special protection measures may be taken where public hearings would infringe upon the personal life of the parties, or there is a real threat to life, health or property if personal data becomes publicly available or if the participant is dependent on the perpetrator.

89. The above-mentioned Guidelines for Law Enforcement (see paragraph 74) address the confidentiality of information which concerns victims of THB. Standard Operation Procedures (SOPs) containing special measures and conditions to be undertaken by investigators while interviewing possible child victims of trafficking were approved by the Ministry of Internal Affairs in January 2015.

90. Purpose-designed interviewing rooms have been set up in some police stations and courts (e.g. in Tbilisi and Rustavi) but reportedly, judges are reluctant to use them in practice. According to the Georgian authorities, judges actively apply remote technical devices for interviewing children in a child-friendly environment, with the attendance of a psychologist and/or social worker (and a translator/interpreter in case of need), in those courts where such rooms are already set up. In addition, a purpose-designed interviewing room has been established at Zugdidi City Court, which was due to be renovated to meet the international standards of a child-friendly environment in the nearest future.

91. According to the Georgian authorities, the addresses of shelters for protection of, and assistance to, victims of THB are kept confidential. The administration is responsible for the protection of victims in the shelters. If a resident wishes to leave the shelter temporarily, the administration suggests an accompanying person to protect their safety.

92. GRETA was informed of the further development of the victim and witness co-ordinator service, which was set up in 2011 under the General Prosecutor's Office. The witness and victim co-ordinator (who is an employee of the Prosecutor's Office) may be involved in a prosecution by decision of a prosecutor and if the victim/witness agrees to communicate with the co-ordinator. The purpose of this involvement is to provide the victim/witness with emotional support during the proceedings, inform them about services available, simplify communication with law enforcement agency, inform them about the ongoing proceedings and their rights and obligations in a language they understand, and prevent re-victimisation and secondary victimisation. In the previously mentioned study by IOM, the role of victim and witness co-ordinators was emphasised by some respondents,⁴⁶ who argued that these co-ordinators' role as advocates for victims needs to be strengthened, as they serve more as advocates for prosecutors. In this context, it was stressed that victim and witness co-ordinators should be engaged early, upon initial identification and questioning, before victim status is allocated. Such an approach would be victim-centred and increase the likelihood of successful criminal justice proceedings against traffickers. In the same study on needs assessment coordinated by IOM, respondents mentioned the need to strengthen co-operation between criminal justice practitioners and social workers and psychologists during court proceedings, and to impress upon police the value that such co-operation can add towards strengthening evidence.

93. GRETA was informed that victim and witness co-ordinators were also being set up under the Ministry of Internal Affairs. Their role is different from that of the victim and witness co-ordinators of the Prosecutor's Office, priority being given to work with victims who have been victims of crimes against women or/and domestic violence, discrimination crimes, sexual abuse, and human trafficking. The responsible police investigator has to consider whether to involve a victim and witness co-ordinator before the case is sent to the Prosecutor's Office. Based on the investigator's decision, the co-ordinator provides the victim/witness with simple, straightforward information the possibility of opening an investigation and the meaning of the procedures and action, the victims' rights and obligations, and the importance of their participation in the investigation process. This service was enlarged in 2020 and by the end of the September, 15 victim and witness co-ordinators were employed by the Ministry of Internal Affairs.

94. GRETA considers that the Georgian authorities should take additional steps to ensure that victims and witnesses of human trafficking are provided with effective and appropriate protection from potential retaliation or intimidation, and that purpose-designed interviewing rooms, equipped with audio-visual technology, are used to interview victims of trafficking in police stations and courts. Furthermore, co-operation between criminal justice practitioners and social workers and psychologists during court proceedings should be enhanced.

10. Specialised authorities and co-ordinating bodies (Article 29)

95. Under Article 29(1) of the Convention, Parties have to adopt the necessary measures to promote specialisation of persons or entities in anti-human-trafficking action and victim protection. Each country must have anti-trafficking specialists in sufficient numbers and endowed with appropriate resources. The staff of specialised authorities and coordinating bodies should, as far as possible, be composed of women and men. To combat trafficking effectively and protect its victims, it is essential that proper training is provided to relevant officials.

96. Within the Ministry of Internal Affairs of Georgia, the Division for Combating Trafficking in Human Beings and Illegal Migration of the Central Criminal Police Department is in charge of the investigation of THB offences, handling requests for international co-operation within its competence, as well as continuous prevention activities. In 2019, the number of mobile police groups was increased from four to six, including two investigators conducting operational activities for the detection and investigation of THB cases and the identification of victims.

⁴⁶ International Organization for Migration, *Needs Assessment: Counter-trafficking Response in Georgia*, 2017, p. 6, available at: https://publications.iom.int/system/files/pdf/counter_trafficking_georgia_en.pdf

97. As explained in GRETA's second report, in January 2014, a Task Force for combating human trafficking was established in the Adjara region's Central Criminal Police Department to enhance the proactive investigation of THB in the Western part of Georgia, where trafficking for the purpose of sexual exploitation is prevalent. The Task Force consists of seven investigators (including two women) and five prosecutors. Its responsibilities include identification of victims, interviewing deported Georgian nationals at the Sarpi border crossing point, and carrying out investigations.

98. GRETA was informed that there are five specialised prosecutors dealing with THB within the Prosecution Service of Georgia. Furthermore, there is a special unit in the General Prosecutor's Office of Georgia, the Division of Criminal Prosecution of Legalisation of Illegal Income, which deals exclusively with money laundering.

99. GRETA was informed that specialisation of judges is required only in the Tbilisi City Court and the Tbilisi Court of Appeal. The judges of both courts are specialised in "crimes against human beings", which include THB. In total, six judges deal with THB cases at the Tbilisi City Court and seven judges at the Tbilisi Court of Appeal.

100. The Investigation Service is a special law enforcement body with the status of a state sub-agency within the Ministry of Finance, entitled to carry out investigative activities, detect, solve and prevent crime in the areas of finance and economy, conduct investigations, and take coercive measures in compliance with the law. Further, as noted in GRETA's second report, a Cybercrime Unit was set up in 2012 within the Central Criminal Police Department of the Ministry of the Interior. This unit has been involved in some joint investigations with the Anti-Trafficking Division (see the case of child trafficking mentioned in paragraph 78).

101. GRETA welcomes the existence of specialised entities for combating THB within the police and considers that the Georgian authorities should take additional steps to ensure that all relevant professional groups are regularly trained on preventing THB, identifying and interviewing victims, referring them to assistance and enabling them to exercise their rights. The training should be embedded in the regular training curricula of different professional groups, including law enforcement officials, prosecutors, judges, lawyers, labour inspectors, social workers, child welfare staff, health-care staff, and diplomatic and consular staff.

11. International co-operation (Article 32)

102. Article 32 of the Convention requires parties to co-operate to the widest extent possible to prevent and combat THB, to protect and to provide assistance to victims, and to investigate and prosecute cases of THB. International co-operation between State Parties to the Convention is also essential for enabling access to effective remedies for victims of trafficking. Parties must co-operate with one another "to the widest extent possible". This principle requires them to provide extensive co-operation to one another and to minimise impediments to the smooth and rapid flow of information and evidence internationally. As regards international co-operation in criminal matters for the purposes of investigations or proceedings, the provisions of the Convention neither cancel nor replace the provisions of relevant international or regional instruments⁴⁷ on mutual legal assistance and extradition, reciprocal arrangements between Parties to such instruments and relevant provisions of domestic law concerning international co-operation.

⁴⁷ For example, the European Convention on Extradition, the European Convention on Mutual Assistance in Criminal Matters and its protocols, Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member states, the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime.

103. As already mentioned in GRETA's second report, pursuant to Article 22 of the Anti-Trafficking Law, Georgian state bodies co-operate with relevant foreign state bodies in preventing and combating THB, and in the protection, support and rehabilitation of victims, under treaties to which Georgia is a party, as well as agreements on mutual legal assistance. According to the authorities, Georgia pays particular attention to expanding international co-operation in combating cross-border trafficking and has concluded international agreements (Memoranda of Understanding) on co-operation in the field of combating crime and police co-operation with 33 countries,⁴⁸ all of which envisage co-operation in the fight against THB-related crimes.

104. According to information provided by the authorities, 16 Georgian police attachés are deployed in the following countries: Armenia, Austria, Azerbaijan, Belarus, Belgium (simultaneously a liaison officer to NATO), Czech Republic, France, Germany, Greece, Italy, Netherlands (simultaneously a liaison officer to Europol), Poland (also covering Estonia, Latvia and Lithuania), Spain, Sweden (covering also Denmark and Finland), Turkey and Ukraine. These police attachés promote the exchange of information and good practices, including in the field of identification and investigation of THB cases.

105. On 4 April 2017, Georgia signed an Agreement on Operational and Strategic Co-operation with Europol. On 9 March 2018, a Memorandum of Understanding on Secure Communication Line and Liaison Agreement was signed with Europol and entered into force on 20 June 2018. On 1 September 2018, a Georgian liaison officer was deployed to Europol's Headquarters. The four-year process of negotiations between Georgia and Eurojust was finalised successfully by signing the Agreement on 29 March 2019 and since 12 June 2020, Georgia also has a Liaison Prosecutor at Eurojust.

106. In April 2018, the Ministry of the Interior transformed the International Criminal Co-operation Centre into the International Law Enforcement Co-operation Centre, and thus incorporated all units competent for international operational co-operation under one entity. The National Central Bureau of INTERPOL, which previously acted as a separate unit at the Ministry, was integrated into this centre and new structural units - the National Contact Point of Europol and single 24/7 unit (serving Europol, INTERPOL and GUAM) - were established within the new centre. This structural change reportedly enhanced the co-ordination and effectiveness of international law enforcement co-operation.

107. During the reporting period, there were no cases of international co-operation in the investigation and prosecution of THB cases, with the exception of the recent joint investigation into child trafficking for the purpose of the production of pornographic materials, together with law enforcement agencies of the USA and Australia (see paragraph 78).

108. **GRETA welcomes the Georgian authorities' participation in multilateral and bilateral international co-operation related to combating THB, and invites the Georgian authorities to further strengthen international co-operation in the investigation and prosecution of THB cases, and the protection of victims of THB.**

⁴⁸ Armenia, Austria, Azerbaijan, Belarus, Bulgaria, China, Czech Republic, Egypt, Estonia, Fiji (MoU), France, Germany, Greece, Hungary, Israel, Italy, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Malta, Moldova, Qatar (MoU), Poland, Romania, Slovakia, Spain, Sweden, Turkey, Ukraine, UK (MoU), USA (MoU) and Uzbekistan.

12. Cross-cutting issues

a. gender-sensitive criminal, civil, labour and administrative proceedings

109. As noted in CEDAW General recommendation No. 33 on women's access to justice, discrimination against women, based on gender stereotypes, stigma, harmful and patriarchal cultural norms and gender-based violence, which affects women in particular, has an adverse impact on the ability of women to gain access to justice on an equal basis with men.⁴⁹

110. Women encounter obstacles with respect to access to justice within and outside the legal system. Some of these obstacles are of a legal or institutional nature, while others have socio-economic and cultural grounds. The legal and institutional barriers include discriminatory or insensitive legal frameworks including: legal provisions that are explicitly discriminatory; gender blind provisions that do not take into account women's social position; and gaps in legislation concerning issues that disproportionately affect women. On the socio-economic level the obstacles include lack of awareness of one's legal rights and legal procedures or of how to access legal aid, which can stem from gender differences in educational levels, and access to information. A further obstacle may be the lack of financial resources, including the means to pay for legal representation, legal fees, judicial taxes, transportation to courts or child care.⁵⁰ Such obstacles, and remedies to them, are listed in a Council of Europe training manual for judges and prosecutors on ensuring women's access to justice, as well as in the publication "Women's Access to Justice: Guide for Legal Professionals".⁵¹

111. Given that the majority of the victims of THB identified in Georgia have been women trafficked for sexual exploitation, the Ministry of the Interior ensures that at least one female investigator works on cases where the victims are women or girls. Additionally, all police staff and prosecutors receive training on gender issues, which is designed to increase their sensitivity to gender issues.

112. Within the training module "Supporting Justice through Gender Equality", set up in 2014 by the High School of Justice, in co-operation with USAID, judges and their assistants are annually trained on gender equality issues and the rights of women, aiming at increasing gender sensitivity among them. Based on the training module, in the period 2015-2019, eight training sessions have been conducted on gender equality issues, with the overall participation of 100 judges.

b. child-sensitive procedures for obtaining access to justice and remedies

113. On 12 June 2015, the Georgian Parliament adopted the first specialised Juvenile Justice Code (JJC). According to Article 4 of the JJC, in juvenile justice proceedings, the best interests of the child shall be considered a priority. The JJC defines the best interests of the child as follows: the interests of safety, well-being, healthcare, education, development, re-socialisation and rehabilitation and other interests that are determined in accordance with international standards and the individual characteristics of the child, and taking into account his/her opinion. Furthermore, according to the JJC, only persons specialised in juvenile justice shall administer juvenile justice proceedings. The JJC requires all persons working with children, including prosecutors, investigators, judges and lawyers, to be specialised in juvenile justice.

⁴⁹ CEDAW General recommendation No. 33 on women's access to justice, paragraph 8, [CEDAW/C/GC/33 of 3 August 2015](https://www.cedaw.org/C/GC/33_of_3_August_2015)

⁵⁰ Council of Europe training manual for judges and prosecutors on ensuring women's access to justice, page 13 available at <https://rm.coe.int/training-manual-women-access-to-justice/16808d78c5>

⁵¹ Available at: <https://rm.coe.int/factsheet-womens-access-to-justice/16808ff44e>

114. Within the framework of the Judiciary Strategy for 2017-2021, the Georgian judiciary is actively working on developing a child-friendly environment in courts. In 2018, a child-friendly environment was created at Rustavi City Court. At Tbilisi City Court, in order to ensure access to justice for juveniles in civil litigation, judges working on cases related to family disputes were moved to a specially designed building with three court rooms, five workrooms and a room for meetings with juveniles in a child-friendly environment. A child-friendly courtroom is available at the premises of the Supreme Court of Georgia.

115. At the end of 2018, the High School of Justice, in co-operation with UNICEF, developed a new training module for judges on children's rights, on the basis of which six training sessions took place in 2019 (attended by 113 judges). In 2020, the High School of Judges, in co-operation with the USAID-PROLoG and UNICEF, developed a training module on the Code on the Rights of the Child, based on which 31 training sessions were organised and 171 judges participated.

116. There is also a permanent group of lawyers specialised in juvenile justice available in the Legal Aid Service, which provides legal assistance to children.

117. GRETA notes the efforts by the Task Force in Adjara to avoid repeated interviewing of child victims of THB.

118. **GRETA welcomes the steps taken by Georgia in the area of juvenile justice, and invites the Georgian authorities to ensure that child victims of THB are in practice afforded special protection measures, including in the context of interviews, both as regards the competencies of the professionals present and the environment in which the interviews are conducted. In this context, GRETA refers to the Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice.⁵²**

c. role of businesses

119. GRETA was not informed of any specific initiatives in Georgia to prevent and eradicate trafficking from supply chains; neither did it receive information on engagement of businesses in supporting the rehabilitation and recovery of victims.

120. The Law on Labour Migration was adopted on 1 April 2015. It regulates relations falling within the field of labour migration, which are related to the provision of employment for persons (citizens of Georgia, foreigners holding a permit for permanent residence in Georgia, and stateless persons having an official status in Georgia) and to their paid labour activities outside Georgia. According to Article 7 of the Law, a legal person, an individual entrepreneur, a branch of a foreign enterprise, or a non-entrepreneurial (non-commercial) legal entity acting in the field of providing employment and/or assistance in the provision of employment outside Georgia, is obliged to register the relevant activity in the registry of economic activities, in accordance with the relevant procedures. Employment and/or assistance in the provision of employment outside Georgia without registration of the relevant activity in the registry of economic activities is punishable by a fine of 500 GEL (€157). The same offence committed repeatedly shall result in the imposition of a fine of 1,000 GEL (€314).

⁵² [Guidelines of the Committee of Ministers of the Council of Europe on child friendly justice](#) (adopted by the Committee of Ministers on 17 November 2010 at the 1098th meeting of the Ministers' Deputies).

121. **GRETA considers that the Georgian authorities should strengthen engagement with the private sector, in line with the UN Guiding Principles on Business and Human Rights⁵³ and Council of Europe Committee of Ministers Recommendation CM/Rec(2016)3 on human rights and business,⁵⁴ with a view to raising awareness of the important role and responsibility of businesses to support the rehabilitation and recovery of victims, and to provide access to effective remedies.**

122. **Further, GRETA considers that the Georgian authorities should adopt legislation integrating the prevention of THB and labour exploitation in public procurement policies and promoting transparency in supply chains to enable scrutiny of companies' performance to prevent THB and labour exploitation.**

d. measures to prevent and detect corruption

123. Other Council of Europe legal instruments, in particular those designed to combat corruption, money laundering and cybercrime, are also relevant to combating human trafficking. The Council of Europe body with the main role to play in the fight against corruption is the Group of States against Corruption (GRECO) whose country reports are relevant in addressing structural shortcomings in preventing corruption, including potentially in a THB context. According to GRECO, it is widely agreed that Georgia has come a long way in creating a regulatory and institutional framework for fighting corruption. It would appear that the government has succeeded in significantly reducing petty corruption, and Georgia's scores in corruption perception indices have also improved considerably over the last decade. At the same time, it has been argued that some of the more complex types of corruption remain a problem. Moreover, citizens apparently continue to mistrust the judiciary more than other institutions. In this connection, the Georgian authorities have referred to the results of a recent survey⁵⁵ assessing the judicial reforms in Georgia, according to which the population in Georgia assesses the independence of the justice system as either "very good" or "largely good". This figure is very close to the EU average, which is 52%. The index of quality of trust in the Georgian judiciary is even higher (55%). Further, in order to assess the level of satisfaction with the quality of justice and courts within society, on 17 December 2018, the High Council of Justice approved the rule on a satisfaction survey of court users. According to this rule, satisfaction surveys should be organised biannually. Within the framework of the first survey, 69% of users (2,794 persons were surveyed) indicated that they trust the Georgian judiciary. During the survey conducted in January 2020, 65% of court users surveyed declared to be trusting the judiciary.

124. In its 2017 report on Georgia, which focuses on corruption prevention in respect of members of parliament, judges and prosecutors,⁵⁶ GRECO recommended, *inter alia*, that the Norms of Judicial Ethics be updated, communicated to all judges/prosecutors and made easily accessible to the public, as well as complemented by practical measures, such as further written guidance and explanations, further training and confidential counselling. GRECO also recommended the introduction of an objective and transparent system for the allocation of cases to judges, such as an automatic (electronic) system providing for random case assignment. The Georgian authorities have indicated that with a view to improving the Norms of Judicial Ethics, a working group of judges was created upon the initiative of the High Council of Justice. On 31 January 2020, the revised Norms of Judicial Ethics were submitted to the Conference of Judges for final approval. As regards the introduction of an automatic system for random case assignment, it has been one of the innovations of so-called "third wave of judicial reform". Since 1 January 2018, cases have been assigned to judges through the electronic system, and this has contributed to the enhancement of the effectiveness and independence of judges.

⁵³ http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

⁵⁴ [Recommendation CM/Rec\(2016\)3](http://www.coe.int/t/cm/Recommendation_CM/Rec(2016)3) of the Committee of Ministers to member States on human rights and business, adopted by the Committee of Ministers on 2 March 2016 at the 1249th meeting of the Ministers' Deputies.

⁵⁵ The survey was conducted by IPSOS France, Amicus Curia, Professor Jan van Dijk, and GORBI on behalf of the Ministry of Justice.

⁵⁶ <http://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806dc116>

125. The investigation and prosecution of corruption and money laundering are amongst the highest priorities of the Georgian judiciary and are included in the five-year Judicial Reform Strategy (2017-2021), launched in 2017 by the High Council of Justice. Throughout recent years, the General Prosecutor's Office has continued implementing measures for increasing the effectiveness of corruption investigations and prosecutions, as well as asset tracking and confiscation. Some of the examples of these measures include the issuing of recommendations for prosecutors and investigators on asset confiscation, development of guidelines for practitioners on investigation and prosecution of crimes committed by legal entities and extensive capacity building activities of investigators and prosecutors. Furthermore, the Interagency Anti-Corruption Council (ACC), chaired by the Minister of Justice, is the main policy-shaper body, which includes all relevant Governmental agencies, NGOs and International Organisations. The Georgian authorities have indicated that business sector representatives are also involved in the working process of the ACC.

126. At the end of December 2018, Georgia completed the implementation process of the Anti-Corruption Action Plan 2017-2018. The Anti-Corruption Strategy and Action Plan for 2019-2020 were adopted by the Anti-Corruption Council on 26 July 2019 and subsequently were approved by the Government on 4 October 2019. Recommendations of various international organisations such as OECD-ACN, GRECO and UNODC have been duly incorporated into anti-corruption strategic documents.

127. **GRETA invites the Georgian authorities to include measures against corruption in a THB context in its future Anti-Corruption Strategy and Action Plan.**

V. Follow-up topics specific to Georgia

1. Measures to prevent, identify and combat THB for the purpose of labour exploitation

128. In GRETA's second evaluation report, GRETA urged the Georgian authorities to increase efforts to proactively identify victims of trafficking for the purpose of labour exploitation, by providing the Labour Inspectorate with the requisite resources and training.

129. The Labour Inspectorate Department of the Ministry of IDPs from the Occupied Territories, Labour, Health and Social Affairs of Georgia inspects private and state institutions in order to expose forced labour and labour exploitation. Since January 2019, there has been a special group within the Labour Inspectorate Department dedicated to this issue. The Labour Inspectorate Department carries out planned and unplanned visits. Unplanned visits are carried out based on the information from hotline calls or written information. In case of suspicion of forced labour or labour exploitation, the Labour Inspectorate Department refers the case to the Central Criminal Police Department (CCPD). Furthermore, it is foreseen to create a joint group composed of labour inspectors and CCPD officers to carry out joint inspection visits, in order to effectively detect cases of forced labour. According to the authorities, there is intensive communication between the Labour Inspectorate and mobile groups of the Central Criminal Police Department. A memorandum of co-operation was renewed between the two agencies to conduct joint inspections, but the COVID-19 pandemic has temporarily halted the process. Work is also underway to refine the checklists used to detect indicators of THB/forced labour and it is planned to increase the number of labour inspectors working specifically on human trafficking.

130. The number of labour inspectors has been increased from 25 to 65. New cars were purchased and the material and technical base was improved. In order to increase their capacity, training with the participation of local and international experts was also conducted during the reporting period, namely on "Labour Rights, Forced Labour and Human Trafficking" (25 participants), on "Human Trafficking and Labour Safety" (25 participants), and on "forced labour and labour exploitation" together with IOM (another 25 participants). A joint training session was organised on "Importance of Inter-Agency Coordination in the Fight against Human Trafficking" for investigators, prosecutors, labour inspectors, social workers and the staff of the State Fund. In total 40 persons were trained, including 11 labour inspectors. A training session on THB was held on 19 April 2019 for newly appointed labour inspectors by representatives of the Ministry of Justice, the Ministry of Internal Affairs and the State Fund (21 participants). Further, Parliament has adopted on second hearing the Law on Labour Inspection, which defines the mandate of the Labour Inspectorate, including issues of forced labour and human trafficking.

131. Mobile groups of the Ministry of Internal Affairs and the Adjara Task Force regularly monitor persons and organisations which offer employment in or outside the country, as well as organisations that arrange transportation for persons leaving the country, and those providing visa assistance and enterprises which recruit foreigners.

132. Furthermore, in close cooperation with IOM, there is ongoing research on best practices of EU countries on the role of labour inspectors in identification of labour exploitation. Based on the research, it is planned to elaborate guidelines for labour inspectors; these are also foreseen in the NAP 2019-2020. According to information provided by the Georgian authorities, a local expert hired in co-operation with IOM carried out a study on best practices in EU countries in the fight against forced labour and human trafficking, and a researcher is currently being selected to develop guidelines for labour inspectors.

133. Georgia has not signed the 2014 Protocol to the ILO Convention on Forced Labour nor the ILO Convention No. 189 concerning decent work for domestic workers. **GRETA encourages the Georgian authorities to sign and ratify these instruments as a matter of priority.**

134. The entry into force of the Labour Safety Code in September 2019 and the extension of the mandate of labour inspectors is certainly a step in the right direction. However, as was underlined in the last evaluation by GRETA, little co-operation is in place to address the prevention of THB for the purpose of labour exploitation. There also seems to be a general lack of understanding about THB for the purpose of labour exploitation; its interpretation is quite restrictive, which limits prevention and identification of certain groups at risk (for both Georgian and third-country nationals) and of other forms of exploitation. While welcoming the adoption of new legislation and the increase in the number of labour inspectors, **GRETA considers that the Georgian authorities should continue reinforcing the capacity and skills to detect and investigate cases of THB for labour exploitation.**

135. **Further, GRETA urges the Georgian authorities to make additional efforts to prevent and combat THB for the purpose of labour exploitation, in particular by:**

- **ensuring that the new Labour Safety Law is fully implemented in practice, and that sufficient resources are made available to labour inspectors to fulfil their mandate in the prevention of THB;**
- **training labour inspectors throughout the country, as well as law enforcement officers, prosecutors and judges, on combating THB for the purpose of labour exploitation and victims' rights, taking into account an extensive interpretation of THB for labour exploitation, and considering potential groups at risk;**
- **building strategic partnerships with civil society, including with trade unions and the private sector (see also paragraph 121).**

2. Identification and assistance of victims of THB

136. In its second evaluation report, GRETA urged the Georgian authorities to take further steps to ensure the timely identification of victims of THB, and in particular to effectively disseminate the existing guidelines, indicators and SOPs, to increase the outreach work of the mobile groups, and to improve co-ordination between the different bodies performing victim identification. Further, GRETA recommended that the authorities reconsider the practice of interviewing possible victims of THB at their place of exploitation, increase efforts to proactively identify victims of trafficking for the purpose of labour exploitation, and pay increased attention to detecting victims of trafficking amongst foreign workers, asylum seekers and persons placed in immigration detention centres.

137. According to Article 3 of the Composition and Rules of Procedure of the Permanent Group, it should take a decision concerning the status of a victim of THB within 48 hours of receiving a victim's identification questionnaire. The Permanent Group takes a decision on granting a victim status by a 4/5 majority. As noted in paragraph 11, the number of identified victims of THB has been on the decrease, including the number of victims granted victim status by the Permanent Group. In 2015-2018, 15 victims were granted such a status. In 2019, not a single person was granted the victim status by the Permanent Group. It seems that the threshold for establishing victim status is quite high, and the burden of proof is shifted to the victim. When presumed victims are refused victim status by the Permanent Group, they are not entitled to any rights of victims, including the right to compensation. The fact that the Permanent Group is composed of five organisations whose representatives may change from one meeting to another and may not be familiar with THB-related issues jeopardises the continuity and consistency of decision making on granting the status of victim of human trafficking. The Georgian authorities have specified that each organisation designates two members to be involved in the working process of the Permanent Group – one is the principal member and the other one is a substitute. The membership does not change often. Furthermore, in order for all members of the Permanent Group to be familiar with existing trends of THB in Georgia, joint workshops and training are held. By way of example, in 2019, members of Permanent Group were trained in the "Trauma-informed Approach to the Identification of Victims of Trafficking".

138. During the reporting period, four THB inspection mobile groups composed of representatives of law enforcement agencies operated in high-risk areas (e.g. hotels, bars, spas, casinos). The mobile groups detect risk areas, check and study persons, including persons engaged in prostitution, and those working in organisations under suspicion. They also monitor persons and organisations offering employment in or outside the country; organisations which arrange transportation for persons leaving the country; travel agencies; enterprises employing foreigners, organisations and persons providing visa assistance. The mobile groups also interview persons who have been employed outside the country through employment agencies operating in Georgia. The aim of the interview is to ensure that each worker has identity cards, that they are freely choosing to travel, that they have been receiving the full remuneration for their work, and that they were engaged in work voluntarily.

139. Similar to the mobile groups, the Adjara Task Force proactively checks locations where there could be THB cases, interviews the employees there and, where appropriate, investigates and prosecutes perpetrators.

140. According to the authorities, the Standard Operation Procedures (SOPs) adopted in 2015 are also actively used by investigators, patrol police officers, staff of the migration department and mobile groups of the State Fund to proactively identify potential THB victims. Law enforcement officers are regularly trained in order to develop their skills and promote their capacity building with regard to detection of THB cases.

141. In addition, aiming at proactively identifying THB victims among migrants and asylum seekers, on 19 December 2017, the THB Council approved the Guidelines on Identification of Victims of THB at the Borders of Georgia. These Guidelines were adopted for border police officers and customs officials, and provide indicators of alleged victims and standards of interviews of THB victims, including children and to whom to refer for assistance. Training sessions were delivered on the implementation of the guidelines.

142. On 22-23 June 2016, the Ministry of Justice, in co-operation with ICMPD and with the financial support of the EU Delegation to Georgia, organised a training on "Legal Mechanisms and Trends on Combating Human Trafficking" for nine staff members working with asylum seekers and refugees. Further, on 27 April 2017, in co-operation with ICMPD and with the financial support of the EU Delegation to Georgia, a training session on THB was organised for staff working with asylum seekers and refugees, the Ministry of Labour, Health and Social Affairs, the State Fund and the Public Defender's Office; 30 participants attended this training. Additionally, on 5 July 2018, a workshop on "Human Trafficking and Domestic Violence in the Context of Determining Refugee Status" was held for 20 staff working with asylum seekers and refugees.

143. The Georgian authorities informed GRETA that in 2015-2018, the Ministry of Justice granted 89,000 GEL (around €30,000) to NGOs for conducting awareness-raising activities on THB, as well as on the protection of children in street situations. However, various NGOs and international organisations claim that, in comparison with the previous reporting period, less efforts were made in organising preventive awareness-raising campaigns in areas where the most vulnerable citizens are living and in risky working environments. As an example, there has been no major information campaign since 2008. The Georgian authorities referred to the THB Council's "Common Information Strategy on Combating Human Trafficking", approved in February 2014, which identifies vulnerable target groups, regions and implementation means. Within the framework of this Strategy, various awareness-raising activities, including information meetings, conferences, round tables, discussions and moot court competitions with different target groups (pupils, students, children in street situations, minorities, employers and employees, IDPs and the rural population) are organised jointly or separately by the Ministry of Justice, the Ministry of Internal Affairs, the Prosecutor General's Office, the Agency for State Care and the Labour Inspectorate Department. In 2015-2018, up to 10,000 persons participated in such awareness-raising activities throughout Georgia. Information leaflets (in Georgian, English, Russian, Azeri, Armenian and Turkish languages) are largely being disseminated in big cities and rural areas, at state borders and consular units.

144. Multilingual information leaflets (in Georgian, English, Turkish, Azeri, Armenian, Arabic and Russian) are disseminated at state borders, airports, shelters for asylum seekers and in the Temporary Accommodation Centre (TAC) for detained migrants. In addition, since 2017, IOM has run an information campaign at the Sarpi and Vale border check points, under the project "Combating Trafficking in Persons in Georgia and Addressing the Demand Side of Trafficking." Leaflets and videos were produced and distributed in five languages (Georgian, Russian, Turkish, English and Persian). The GRETA delegation witnessed the availability of posters and leaflets about THB at the Sarpi border checkpoint (with Turkey) in different languages, informing citizens crossing the border for work purposes about their rights and potential risks related to THB. The Georgian authorities have indicated that the dissemination of leaflets at the borders of Georgia is one of the commitments undertaken under the National Action Plan for 2019-2020 and the Migration National Action Plan for 2020. Therefore, every year the Ministry of Internal Affairs provides the border police with leaflets on THB to disseminate them among people throughout the year.

145. The State Fund operates two shelters for victims of THB, in Tbilisi and Batumi, and five crisis centres for victims of THB in Tbilisi, Kutaisi, Gori, Marneuli, and Ozurgeti. In addition, there is one crisis centre run by the NGO Anti-Violence Network. The shelters are available for those persons who have already been granted the status of victim or statutory victim, while crisis centres are also available for presumed victims. The crisis centres function as day-care facilities and provide information about THB and the State Fund's services. The only crisis centre offering accommodation (up to 12 days) is the one in Tbilisi. The shelters and crisis centres are also available for victims of domestic violence and at the time of the visit, there were mainly victims of domestic violence accommodated in the shelters.

146. The annual budget of the State Fund, covering the cost of running the two shelters, the five crisis centres and the one-off compensation paid to victims of THB, was equivalent to 347,599 GEL (equivalent to €109,000) in 2015, 339,663 GEL (€106,577) in 2016, 352,053 GEL (€ 110,465) in 2017 and 380,814 (€ 119,489) in 2018.

147. GRETA is concerned by the low victim identification rate and the decrease in the number of victims identified by the Permanent Group. **GRETA urges the Georgian authorities to take further steps to proactively identify victims of THB, including by:**

- **improving the selection and training of the members of the Permanent Group and guaranteeing that the Permanent Group's working procedures are victim-oriented, in particular that the burden of proof is not shifted on the victim;**
- **increasing their efforts to proactively identify victims of trafficking for the purpose of labour exploitation (see also paragraph 135);**
- **paying increased attention to detecting victims of trafficking amongst foreign workers, asylum seekers and persons placed in immigration detention centres.**

3. Identification of child victims of trafficking

148. In its second evaluation report, GRETA urged the Georgian authorities to improve the identification of, and assistance to, child victims of trafficking, in particular by adopting as a matter of priority a referral mechanism for the identification and assistance of child victims of THB; by ensuring that relevant actors take a proactive approach and increase their outreach work to identify child victims of THB; by ensuring that child victims of trafficking fully benefit from the assistance measures provided for under the Convention; by providing further training to stakeholders as well as guidance for the identification of child victims of THB for the purposes of exploitation of begging and exploitation of criminal activities; by ensuring that proper risk assessment is conducted before returning children to their parents, taking into account the best interests of the child; and by ensuring long-term monitoring of the reintegration of child victims of trafficking.

149. When services of the State Fund become aware of a case of THB concerning a child, the case is immediately referred to the Social Service Agency (SSA) of the Ministry of IDPs from Occupied Territories, Labour, Health and Social Affairs of Georgia. The SSA is a responsible entity for the protection of children. The SSA and the State Fund jointly plan and deliver all relevant services to child victims based on their needs, including legal aid.

150. On 22 June 2016, the Georgian Parliament adopted a legislative package amending 10 laws,⁵⁷ including concerning children living and/or working in the streets. The objectives of such amendments were: to provide children in street situations with free of charge identification documents; to strengthen the power of social workers to remove a child from its family or to separate a child from an abuser; to ensure that all governmental institutions, medical establishments and local municipalities refer possible cases of child violence to the SSA and the police.

151. The new Child Protection Referral Mechanism was adopted on 12 September 2016. Unlike the previous referral instrument, which was adopted by the Minister of the Interior, the Minister of Health Care and the Minister of Education, the new one was approved by the Government of Georgia, giving it a higher status. It expanded the list of entities responsible for referring child violence cases to relevant agencies. Failure to report such cases invokes administrative liability. Furthermore, the new referral mechanism foresees the development of an integrated database of child violence cases. The database will put together information about child victims, perpetrators and forms of violence. It will be technically administrated by the police, and will be accessible to all the agencies involved in the referral proceedings. The Georgian authorities have indicated that statistical data on referrals of alleged cases of violence against children to the Child Protection Referral Mechanism show a constant increase since 2016: from 766 cases in 2016, to 1,624 in 2019. Currently, the Government is introducing the so-called "Barnahus model" and putting in place the Centre for Psychological and Social Services for Child Victims of Sexual Abuse.

152. On 22 March 2016, amendments were introduced to the Law on the Regulations of Leaving and Arrival by Citizens of Georgia and the Law on the Legal Status of Foreigners and Stateless Persons. The aim of the amendments (in force since April 2016) was to prevent the committing of illegal acts against children born in Georgia through surrogacy, as well as violence, pornography, sexual exploitation and THB. According to the amendments, taking a child born in Georgia out of the country through surrogacy is possible only when both parents are indicated in a duly issued birth certificate. In addition, the rules on the removal of a child born in Georgia through surrogacy were approved in the Joint Order of the Minister of Justice and the Minister of Internal Affairs of April 2016. This Joint Order regulates the procedures on surrogacy and important aspects of co-operation between the respective units of the Ministry of Internal Affairs and the Public Service Development Agency to protect the rights and best interests of a child.

153. The prevention of human trafficking is closely linked to the online security of children. Recruiting victims through the Internet, via websites advertising jobs, dating sites or social media is a growing trend. The issue appears to be given little priority by law enforcement and is limited to online child sexual abuse as a response to requests for co-operation from foreign law enforcement agencies. School staff and psychologists are not trained on the role of ICT in THB, and they are not equipped to identify and deal with possible cases of child sexual abuse online or child labour exploitation.

154. While welcoming the adoption of the new Child Protection Referral Mechanism, **GRETA considers that the Georgian authorities should strengthen their efforts in the areas of prevention of child trafficking, using the results of research on new trends, sensitising and training child protection professionals across the country, and paying increased attention to the link between THB in children and the use of ICT.**

⁵⁷ See details on legislative amendments in the reply to the third round evaluation questionnaire by the Georgian authorities <https://rm.coe.int/greta-2018-26-geo-rep-en/168098188b>

4. Recovery and reflection period

155. According to Article 12 of the Anti-Trafficking Law, a 30-day reflection period is to be granted to presumed and identified victims of THB for the purpose of deciding whether to co-operate with the law enforcement bodies. This period is also reflected in the Guidelines for Law Enforcement, which state that if a person decides that he/she does not want to co-operate with law enforcement agencies, he/she can apply to the Permanent Group to be granted the status of a victim of THB.

156. A presumed victim of THB must be informed of the possibility to be granted a reflection period as of the moment of addressing the State Fund, shelter or law enforcement agency. This information is provided to presumed victims in written form, as well as orally during the first interview. According to the authorities, all victims were informed about the reflection period, however, nobody applied for it.

157. As noted in the second report, GRETA is concerned that Article 12 of the Anti-Trafficking Law does not state the purpose of the recovery and reflection period as it is stated in the Convention, i.e. to enable possible victims of trafficking to escape the influence of the traffickers and/or to take an informed decision on co-operating with the competent authorities. According 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. Moreover, in itself, it should not be conditional on the victim's co-operation with the investigative or prosecution authorities. The Georgian authorities have stressed that offering the recovery and reflection period to the presumed victim is not conditional on the victim's co-operation with law enforcement. According to the Anti-Trafficking Law, the aim of the 30-day reflection period is for the presumed victim to decide whether he/she wants to co-operate with law enforcement. The mobile groups of the Ministry of Internal Affairs, as well as the mobile groups of the Agency for State Care, provide information on this right to the presumed victim immediately, from the very first moment of contact. The five crisis centres (in Tbilisi, Kutaisi, Gori, Ozurgeti and Marneuli) functioning under the Agency for State Care provide presumed victims and their dependents, before the official status of a victim of THB has been given, with a full package of services, including legal aid, medical and psychological assistance, rehabilitation and reintegration measures, and interpretation.

158. GRETA considers that the Georgian authorities should ensure, in compliance with the obligations under Article 13 of the Convention, that all possible victims of trafficking are offered a recovery and reflection period and all the measures of protection and assistance envisaged in Article 12, paragraphs 1 and 2, of the Convention during this period. Officers performing identification should be issued with clear instructions stressing the need to offer the recovery and reflection period as defined in the Convention, i.e. not making it conditional on the victim's co-operation and offering it to victims before formal statements are made to investigators.

5. Abuse of a position of vulnerability

159. In its second evaluation report, GRETA noted that the interpretation of abuse of a position of vulnerability was more restrictive than that of the Convention, and drew the attention of the Georgian authorities to paragraph 83 of the Explanatory Report of the Convention, which states as follows: "by abuse of a position of vulnerability is meant abuse of any situation in which the person involved has no real and acceptable alternative to submitting to the abuse. The vulnerability may be of any kind, whether physical, psychological, emotional, family related, social or economic. The situation might, for example, involve insecurity or illegality of the victim's administrative status, economic dependence or fragile health. In short, the situation can be any state of hardship in which a human being is impelled to accept being exploited. Persons abusing such a situation flagrantly infringe human rights and violate human dignity and integrity, which no one can validly renounce."

160. The Georgian authorities have indicated that, pursuant to Article 3, paragraph "c", of the Anti-Trafficking Law, abuse of a position of vulnerability is defined as a situation where a person is materially or otherwise dependent on another person, or not able to realistically assess the existing situation due to his/her physical or mental defect, or when a person has no option other than to obey in the face of the violence used against him/her. These conditions are alternative, and one of them is enough to qualify the situation as an abuse of a position of vulnerability. Therefore, according to the authorities, the position of vulnerability is not only related to physical or mental disability, but also to any kind of situation where a victim is dependent on the trafficker materially, socially or because of any other circumstances. The Georgian authorities have stated that as of 1 January 2021, the definition of the "abuse of a position of vulnerability" will be changed, and the conditions will be as follows: where a person is materially or otherwise dependent on another person, or where a person with a disability cannot realistically assess the existing situation, or where a person has no option other than to give in to violence used against him/her. There have been no cases of THB in which an interpretation of "abuse of a position of vulnerability" has been given, but there is case-law regarding domestic violence.

Appendix 1 - List of GRETA's conclusions and proposals for action

The position of the proposals for action in the text of the report is shown in parentheses.

Topics related to the third evaluation round of the Convention

Right to information

- GRETA considers that law enforcement officers, including border control staff, and members of the mobile groups performing preliminary identification, should undergo continuous training and be provided with instructions on how to properly explain to victims of THB their rights and systematically refer them to the State Fund or specialised NGOs for support and assistance (paragraph 36).

Legal assistance and free legal aid

- GRETA considers that the Georgian authorities should take further steps to ensure trafficking victims' access to legal assistance and free legal aid. Actors performing victim identification should appoint a lawyer as soon as there are reasonable grounds for believing that a person is a victim of human trafficking, before the persons concerned have to decide whether or not they want to cooperate with the authorities and/or make an official statement (paragraph 42).

Access to work, vocational training and education

- GRETA considers that the Georgian authorities should strengthen effective access to the labour market for victims of THB, as well as their economic and social inclusion through the provision of vocational and language training and job placement, including the promotion of micro-businesses, social enterprises and public-private partnerships, with a view to creating appropriate work opportunities for victims of trafficking (paragraph 50).

Compensation

- GRETA urges the Georgian authorities to take vigorous measures to facilitate and guarantee access to compensation for victims of trafficking, including by:
 - introducing a procedure through which victims are entitled to obtain a decision on compensation from the offender as part of the criminal trial and requiring courts to state, where applicable, why compensation is not considered;
 - 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 building the capacity of legal practitioners to support victims to claim compensation and by guaranteeing effective access to legal assistance and free legal aid;
 - including compensation in existing training programmes for law enforcement officials and the judiciary;

- encouraging prosecutors and judicial authorities to make full use of the legislation on the freezing and forfeiture of offenders' assets and international co-operation to secure compensation to victims of THB;
- reviewing the procedure for awarding one-off compensation by the State Fund with a view to ensuring that it is not conditional on failure to obtain compensation from the perpetrator through court proceedings, and ensuring that in practice it does not depend on the victims' co-operation in the law enforcement authorities;
- increasing the amount of the one-off compensation payment with a view to meeting the reintegration needs of victims, and using confiscated criminal assets to finance the State Fund (paragraph 64).

Investigations, prosecutions, sanctions and measures

- GRETA considers that the Georgian authorities should take further steps to ensure that human trafficking offences for all forms of exploitation are proactively and promptly investigated across Georgia, making use of special investigation techniques and financial investigations in order to gather evidence and not rely exclusively on testimony by victims or witnesses (paragraph 80).
- GRETA urges the Georgian authorities to take additional measures to ensure that THB cases lead to effective, proportionate and dissuasive sanctions and are not re-qualified as other offences which carry lighter penalties and deprive victims of THB of access to protection, support and compensation. If an alternative charge is preferred in THB cases, this should be recorded and monitored by the Prosecutor's Office. The plea-bargaining procedure should be used only exceptionally in human trafficking cases, subject to appropriate safeguards, where the reduction of a sentence is clearly outweighed by the advantages offered by the plea agreement (these advantages being indicated in the judicial decision approving the agreement) and the agreement is not in any way detrimental to the rights of the victims, including their access to compensation (paragraph 81).

Non-punishment provision

- GRETA considers that the Georgian authorities should develop guidance and training for police officers and prosecutors on the non-punishment provision (paragraph 85).

Protection of victims and witnesses

- GRETA considers that the Georgian authorities should take additional steps to ensure that victims and witnesses of human trafficking are provided with effective and appropriate protection from potential retaliation or intimidation, and that purpose-designed interviewing rooms, equipped with audio-visual technology, are used to interview victims of trafficking in police stations and courts. Furthermore, co-operation between criminal justice practitioners and social workers and psychologists during court proceedings should be enhanced (paragraph 94).

Specialised authorities and co-ordinating bodies

- GRETA welcomes the existence of specialised entities for combating THB within the police and considers that the Georgian authorities should take additional steps to ensure that all relevant professional groups are regularly trained on preventing THB, identifying and interviewing victims, referring them to assistance and enabling them to exercise their rights. The training should be embedded in the regular training curricula of different professional groups, including law enforcement officials, prosecutors, judges, lawyers, labour inspectors, social workers, child welfare staff, health-care staff, and diplomatic and consular staff (paragraph 101).

International co-operation

- GRETA welcomes the Georgian authorities' participation in multilateral and bilateral international co-operation related to combating THB, and invites the Georgian authorities to further strengthen international co-operation in the investigation and prosecution of THB cases, and the protection of victims of THB (paragraph 108).

Child-sensitive procedures for obtaining access to justice and remedies

- GRETA welcomes the steps taken by Georgia in the area of juvenile justice, and invites the Georgian authorities to ensure that child victims of THB are in practice afforded special protection measures, including in the context of interviews, both as regards the competencies of the professionals present and the environment in which the interviews are conducted. In this context, GRETA refers to the Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice (paragraph 118).

Role of businesses

- GRETA considers that the Georgian authorities should strengthen engagement with the private sector, in line with the UN Guiding Principles on Business and Human Rights and Council of Europe Committee of Ministers Recommendation CM/Rec(2016)3 on human rights and business, with a view to raising awareness of the important role and responsibility of businesses to support the rehabilitation and recovery of victims, and to provide access to effective remedies (paragraph 121).
- Further, GRETA considers that the Georgian authorities should adopt legislation integrating the prevention of THB and labour exploitation in public procurement policies and promoting transparency in supply chains to enable scrutiny of companies' performance to prevent THB and labour exploitation (paragraph 122).

Measures to prevent and detect corruption

- GRETA invites the Georgian authorities to include measures against corruption in a THB context in its future Anti-Corruption Strategy and Action Plan (paragraph 127).

Follow-up topics specific to Georgia

Developments in the legal, institutional and policy framework for action against human trafficking

- GRETA considers that the Georgian authorities should examine the possibility of establishing an independent National Rapporteur or designating an already existing independent mechanism for monitoring the anti-trafficking activities of state institutions (paragraph 19).
- GRETA is concerned that trafficking in human beings has not been the subject of sufficient political attention in Georgia in recent years and stresses the importance for maintaining a strong focus on the fight against THB as an ongoing challenge, including through vigorous prevention, strengthened proactive identification of victims, and enhanced criminal justice response to THB for all forms of exploitation (paragraph 21).

Measures to prevent, identify and combat THB for the purpose of labour exploitation

- GRETA encourages the Georgian authorities to sign and ratify the 2014 Protocol to the ILO Convention on Forced Labour and ILO Convention No. 189 concerning decent work for domestic workers, as a matter of priority (paragraph 133).
- GRETA considers that the Georgian authorities should continue reinforcing the capacity and skills to detect and investigate cases of THB for labour exploitation (paragraph 134).
- GRETA urges the Georgian authorities to make additional efforts to prevent and combat THB for the purpose of labour exploitation, in particular by:
 - ensuring that the new Labour Safety Law is fully implemented in practice, and that sufficient resources are made available to labour inspectors to fulfil their mandate in the prevention of THB;
 - training labour inspectors throughout the country, as well as law enforcement officers, prosecutors and judges, on combating THB for the purpose of labour exploitation and victims' rights, taking into account an extensive interpretation of THB for labour exploitation, and considering potential groups at risk;
 - building strategic partnerships with civil society, including with trade unions and the private sector (paragraph 135).

Identification and assistance of victims of THB

- GRETA urges the Georgian authorities to take further steps to proactively identify victims of THB, including by:
 - improving the selection and training of the members of the Permanent Group and guaranteeing that the Permanent Group's working procedures are victim-oriented, in particular that the burden of proof is not shifted on the victim;
 - increasing their efforts to proactively identify victims of trafficking for the purpose of labour exploitation (see also paragraph 135);
 - paying increased attention to detecting victims of trafficking amongst foreign workers, asylum seekers and persons placed in immigration detention centres (paragraph 147).

Identification of child victims of trafficking

- GRETA considers that the Georgian authorities should strengthen their efforts in the areas of prevention of child trafficking, using the results of research on new trends, sensitising and training child protection professionals across the country, and paying increased attention to the link between THB in children and the use of ICT (paragraph 154).

Recovery and reflection period

- GRETA considers that the Georgian authorities should ensure, in compliance with the obligations under Article 13 of the Convention, that all possible victims of trafficking are offered a recovery and reflection period and all the measures of protection and assistance envisaged in Article 12, paragraphs 1 and 2, of the Convention during this period. Officers performing identification should be issued with clear instructions stressing the need to offer the recovery and reflection period as defined in the Convention, i.e. not making it conditional on the victim's co-operation and offering it to victims before formal statements are made to investigators (paragraph 158).

Appendix 2 - List of public bodies, intergovernmental organisations and civil society organisations with which GRETA held consultations

Public bodies

- Inter-Agency Council on Combating Trafficking in Human Beings
- Ministry of Justice
- Ministry of Internal Affairs
- Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Protection
- Ministry of Education, Science, Culture and Sports
- Ministry of Foreign Affairs
- General Prosecutor's Office
- Social Service Agency
- State Fund for Protection and Support of Victims and Persons Affected by Trafficking
- State Legal Aid Service
- National Tourism Administration
- High Council of Justice
- Batumi and Tbilisi City Courts
- Public Defender's Office
- Task Force for combating human trafficking, Adjara region

Intergovernmental organisations

- International Organization for Migration (IOM)
- UNICEF Georgia

Civil society organisations

- Anti-Violence Network of Georgia (AVNG)
- Georgian Young Lawyer's Association (GYLA)
- Save the Children Georgia

Government's comments

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

GRETA engaged in a dialogue with the Georgian 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 Georgian authorities on 18 December 2020 and invited them to submit any final comments. The comments of the authorities, submitted on 12 February 2021, are reproduced hereafter.



ქვეყნის საგარეო
სამართლებლო მდივნის
ნარჩენი
REPRESENTATION PERMANENTE
DE LA GEORGIE AUPRES
DU CONSEIL DE L'EUROPE



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№ 24/3216
12/02/2021

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

Dear Ms Nestorova,

I would like to transmit the comments and additional information provided by the Government of Georgia on the Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Georgia (third evaluation round).

Please, accept the assurances of my highest consideration.

Encl.: 8 pages.

Sincerely yours,

Irakli Giviashvili
Ambassador, Permanent Representative
of Georgia to the Council of Europe

The Government of Georgia (GoG) expresses its appreciation to GRETA and the Secretariat for evaluation of Georgian efforts against trafficking in human beings (THB) and development of the third evaluation round report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings. GoG also thanks GRETA for taking into consideration the comments and additional information provided by GoG on 16 September 2020 on the draft version of the mentioned report.

The report was carefully studied and considered by all line ministries and state agencies involved in the implementation of anti-trafficking policy. The assessment and recommendations provided by GRETA will be highly worthwhile and beneficial for further developing Georgian counter-trafficking policy.

In accordance with the request of GRETA, the Government of Georgia provides additional comments and information to the report.

Para. 15

"The Secretariat of the THB Council is provided by the Public International Law Department of the Ministry of Justice of Georgia. It monitors the implementation of the National Action Plan on THB and draws up reports once a year. Three persons were working on THB issues in the Secretariat of the THB Council at the time of the visit."

Para. 19

"Since the second evaluation by GRETA, the THB Council approved two National Action Plans, for 2017-2018 and 2019-2020. The current National Action Plan includes measures related to prevention, assistance of victims, prosecution, data collection, research and capacity building. A report on the implementation of the plan is published by the THB Council."

GOG comment:

The Government of Georgia would like to inform GRETA that the new Anti-Trafficking National Action Plan (NAP) for 2021-2022 was approved by the Inter-Agency Council on Combatting Trafficking in Human Beings (THB Council) on 2 December 2020. The Action Plan was elaborated with the active engagement of all Governmental Agencies, Public Defender's Office, Parliament of Georgia, NGOs, and International Organizations. Their recommendations and feedback were reflected to the NAP. During the elaboration process of the draft NAP, recommendations of GRETA, US State Department, OSCE and other International Organizations were taken into consideration and reflected to the NAP. Notably, we also took into account the practice of the ECHR and incorporate the standards of the Court case law while designing the Anti-Trafficking policy.

Unlike to previous practice that ensured the monitoring of implementation of Anti-Trafficking NAPs annually, the newly adopted NAP for 2021-2022 will ensure the monitoring process in every 6 months.

Apart from it, the Secretariat of THB Council is in charge of transparency and accountability of the work of the THB Council. For that aim the following measures are taken:

- Special page is devoted on THB on the official website of the Ministry of Justice of Georgia. The page includes information on THB international and national legislation, policy, THB Council, policy documents, National Referral Mechanism, Services available for THB (statutory) victims, measures taken to protect children in street situations, THB related grant competitions for NGOs and THB statistics <https://www.justice.gov.ge/Ministry/Index/309>
- THB segregated statistics are permanently updated and available public <https://www.justice.gov.ge/Ministry/Index/357>

- Special Facebook page will be created in the beginning of 2021 where information on Georgia's A-THB efforts and activities will be regularly published. It will strengthen transparency and accountability of the THB Council.
- In every 3 months the THB council will elaborate the newsletter on A-THB measures. The newsletter will be shared by the THB Council with all stakeholders and via the official website of MOJ and the Facebook page of the THB Council.
- The weblink of the official website of MOJ will be distributed through the relevant agencies and LEPLs of MOJ in order to ensure more visibility and availability of the THB information.

Strengthening awareness raising is a prerequisite for THB prevention.

Para 21

"While welcoming the attention given to combating violence against women, GRETA noted during the third evaluation visit to Georgia that less attention was being paid to combating trafficking in human beings. As a consequence, NGOs that used to be active in the anti-trafficking field had shifted their focus to domestic violence. GRETA is concerned that trafficking in human beings has not been the subject of sufficient political attention in Georgia in recent years and stresses the importance for maintaining a strong focus on the fight against THB as an ongoing challenge, including through vigorous prevention, strengthened proactive identification of victims, and enhanced criminal justice response to THB for all forms of exploitation."

GOG comment:

The prevalence of the domestic crimes are essentially different from the prevalence of THB, therefore comparing the massive of actions taken against domestic violence is irrational.

Para. 35

"In its second report, GRETA recommended that the Georgian authorities provide interpretation during police interviews of possible victims of trafficking, where necessary. Pursuant to Article 53 of the CPC, an interpreter shall be called when a trial participant has no or insufficient command of the language of the criminal procedure and/or it is necessary to translate a text in the language of the criminal procedure. Every participant of the criminal proceedings who has no command of Georgian is provided with an interpreter at all stages of the proceedings, by the relevant body responsible for the stage of the proceedings. The Ministry of Internal Affairs has permanent service contracts with organisations which provides translation/interpretation. The Anti-Trafficking Law also provides that victims should be informed on their rights, obligations and legal status, as well as regarding the progress of investigation and judicial proceedings, in a language they understand. Interpretation is provided by the Agency for State Care, and is included in the internal regulations of the shelters and crisis centres."

GOG comment:

Office of the Prosecutor General of Georgia also has permanent service contract with the organizations, providing translation/interpretation. Based on the contract every participant of the criminal law proceedings, including statutory victim that has no command of Georgian language, is provided with the unlimited and uninterrupted use of interpreter's service at any stage of the proceedings.

When such person needs communication with a prosecutor or he/she is involved in a procedural action embraced by the prosecutor's authority, an interpreter is provided by the Prosecution Service of Georgia.

Para. 41

"According to the Georgian authorities, lawyers of the State Fund (currently Agency for State Care) and the Legal Aid Service undergo annual training on THB issues. This commitment is enshrined in the National Action Plan on Combatting THB, and training is planned for 2020."

GOG comment:

GoG kindly notes that on 14 December 2020 Ministry of Justice, Ministry of Internal Affairs and the Agency for State Care and Assistance of (Statutory) Victims of Trafficking in Human Beings (hereinafter - Agency for State Care) conducted training for 31 lawyers of the LEPL Legal Aid Service. Due to COVID-19 pandemic, the training was conducted online.

Para. 49

"The Agency will be developing proposals for the regulation of labour migration and the improvement of state policy and legislation in the field of labour migration, providing support and promoting employment of labour migrants, and the preparation of proposals on labour migration regulation in Georgia."

GOG comment:

The Government of Georgia pays substantial attention to guaranteeing organized operation of the well-developed migration management system. One of the key priorities of the Government of Georgia is development of opportunities of the legal employment abroad (circular labour migration) for Georgian citizens in terms of effective implementation of state employment and active labour market policy. The Ministry of IDPs from the Occupied Territories, Labour, Health and Social Affairs of Georgia dynamically works on deepening interstate cooperation aimed agreeing on relevant legal labour migration schemes, as well as on further development and improvement of internal state regulatory system of labour migration.

Well-organized, temporary legal labour migration together with the extended opportunities of employment, allows Georgian citizens to raise their qualification, deepen work experience abroad, gain skills of the European standards, raise their competitiveness at the labour market and subsequently, improve economic opportunities.

Moreover, development of the temporary legal employment opportunities (circular labour migration) will promote management of irregular migration flows and decrease number of asylum seekers. Nowadays Georgia has already signed three agreements and agreed on relevant schemes. Negotiations to sign such agreements with number of EU member states are underway. In addition, institutions working on circular labour migration have been strengthened. Division for "Labour Migration Issues" was established at the Ministry of IDPs, Labour, Health and Social Affairs of Georgia in order to manage labour migration related issues and lead the negotiation process with foreign partners and internal coordination.

Para. 62

"GRETA was informed that in 2015, the State Fund awarded one-off compensations to 18 victims of THB, in 2016, to two victims, in 2017, to one victim, and in 2020, also to one victim. GRETA is concerned by the decrease in the number of State compensation awards to victims of THB."

GOG comment:

In 2020 the one -off State compensation amounted in 1000 GEL was granted to 3 victims of THB.

Para. 81

"Further, GRETA urges the Georgian authorities to take additional measures to ensure that THB cases lead to effective, proportionate and dissuasive sanctions and are not re-qualified as other offences which carry lighter penalties and deprive victims of THB of access to protection, support and compensation. If an alternative charge is preferred in THB cases, this should be recorded and monitored by the Prosecutor's Office."

GOG comment:

As GoG informed GRETA, taking into consideration of Article 101 of the Criminal Procedure Code of Georgia, Ministry of Internal Affairs of Georgia starts investigation in case of any information and any doubt on human trafficking. However degree to which received information corresponds to the evidence collected in the course of investigation, depends on the irrefutable evidences.

Investigation and prosecution of THB cases is one of the priority and GoG has strict policy against human traffickers. Alternative charges to the THB cases are not preferred by GoG. The qualification of a prosecuted crime as non-THB case is dependent only on the irrefutable evidences that THB was not committed.

Para. 119

"GRETA was not informed of any specific initiatives in Georgia to prevent and eradicate trafficking from supply chains; neither did it receive information on engagement of businesses in supporting the rehabilitation and recovery of victims."

Para. 135

"building strategic partnerships with civil society, including with trade unions and the private sector. In this respect, GRETA refers to the UN Guiding Principles on Business and Human Rights, endorsed by the UN Human Rights Council in its Resolution 17/4 of 16 June 2011."

GOG comment:

Newly adopted Anti-Trafficking NAP for 2021-2022 commits the Government of Georgia to strengthen cooperation with business sector for prevention of forced labour. One of the main direction of the cooperation and improvement will be the prevention of forced labour in public and private supply chains. In October, 2018 Memorandum of Understanding was concluded between Georgia, Grace Farms Foundation and Unchain. The aim of the Memorandum is to provide the standards and practices to businesses, corporations and private investors to promote supply chain transparency and eradicate modern slavery and human trafficking.

Paras 128-130 related to Labour Inspectorate Department**GOG comment:**

GOG informs that the Law of Georgia on Labour Inspection was adopted by the Parliament of Georgia on September 29, 2020. Based on the Law since 1January 2021, the Labour Inspectorate Department of the Ministry of IDPs from the Occupied Territories, Labour, Health and Social Affairs has been formed as a separate LEPL Labour Inspection Service under the same Ministry. The LEPL Labour Inspection Service is the successor of the Labour Inspectorate Department that carries out scheduled and unscheduled visits to the companies and in case of any suspicion on forced labour or labour exploitation refers the case to the Central Criminal Police Department of the Ministry of Internal Affairs of Georgia.

The special unit on supervision of forced labour and labour exploitation has been created under the Labour Inspection Service.

Para. 137

"According to Article 3 of the Composition and Rules of Procedure of the Permanent Group, it should take a decision concerning the status of a victim of THB within 48 hours of receiving a victim's identification questionnaire. The Permanent Group takes a decision on granting a victim status by a 4/5 majority. As noted in paragraph 11, the number of identified victims of THB has been on the decrease, including the number of victims granted victim status by the Permanent Group. In 2015-2018, 15 victims were granted such a status. In 2019, not a single person was granted the victim status by the Permanent Group. It seems that the threshold for establishing victim status is quite high, and the burden of proof is shifted to the victim. When presumed victims are refused victim status by the Permanent Group, they are not entitled to any rights of victims, including the right to compensation. The fact that the Permanent Group is composed of five organisations whose representatives may change from one meeting to another and may not be familiar with THB-related issues jeopardises the continuity and consistency of decision making on granting the status of victim of human trafficking. The Georgian authorities have specified that each organisation designates two members to be involved in the working process of the Permanent Group – one is the main member and the other one is a substitute. The members are not often changed. Furthermore, in order for all members of Permanent group to be familiar with existing tendencies of THB in Georgia, joint workshops and training are held. By way of example, in 2019, members of Permanent Group were trained on "Trauma -informed Approach to the Identification of Victims of Trafficking".

GOG comment:

In addition to the comments and information submitted by GoG to GRETA on the draft version of the present report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Georgia, on 16 September 2020, GoG kindly notes that THB Council approved the draft amendments to the Governmental Decree N284 on Unified Standards and Rules on Identification of the Victims of Trafficking in Human Beings. The draft amendments ensure the Permanent Group to take the decision on granting the status of a THB victim to a person by majority votes of the members present. The Permanent Group will be entitled to make the decision in case at least 3 members out of 5 are present. The amendments will ensure the threshold for establishing victim status to be reduced.

Apart from it, the amendments also set the following criteria to be met by members of the Permanent Group:

- a) Higher education, preferably in one of the following areas: Psychology, Law, Medicine, Human Rights, Gender Issues, Socio-Political Sciences;
- b) At least 2 years of work experience in the field of combating trafficking in human beings, violence or protection of children's rights, that is confirmed by an official letter submitted by the head of the permanent group member organization and the attached resume of the candidate.

GoG also continues training of the mobile groups responsible for interviewing the potential THB victims and Permanent Group on THB issues:

- On 28-29 September 2020 the training on "Psychological Aspects of Interaction with Alleged Victims of Human Trafficking" was organized by the Ministry of Justice of Georgia and the International Centre for Migration Policy Development (ICMPD) with financial support of EU. The training was delivered by Georgian psychologist for the mobile groups of the Agency for State Care responsible for interviewing the potential THB victims and the NGOs and IOs members of the Permanent Group on granting the status of THB victim to a person (in total 13 participants);

- On 25 November online training was organized by the Ministry of Justice of Georgia and International Organisation for Migration (IOM) with financial support of EU on "Psychosocial support and psychological counselling for victims of THB". The training was delivered by Georgian and foreign experts for the psychologists and social workers of the mobile groups of Agency for State Care, NGOs "Tanadgoma" and "Anti-Violence Network of Georgia" which are the member organizations of the Permanent Group and Victims and Witness Coordinators of Ministry of Internal Affairs and Prosecutor's Office of Georgia.

In accordance with the newly adopted NAP for 2021-2022 it is also planned to elaborate the guidelines for the mobile groups of the Agency for State Care and the Permanent Group working on identification of THB victims

Despite COVID-19 related confinements, in 2020 the Permanent Groups managed to identify 3 victims of THB.