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GROUP OF EXPERTS
ON ACTION AGAINST
TRAFFICKING IN HUMAN BEINGS

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

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Preamble

The Group of Experts on Action against Trafficking in Human Beings (GRETA) has been set up 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.

GRETA is composed of 15 independent and impartial experts coming from a variety of backgrounds, who have been selected on the basis of their professional experience in the areas covered by the Convention. The term of office of GRETA members is four years, renewable once.

GRETA's country-by-country monitoring deals with all parties to the Convention on an equal footing. 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 on which the evaluation procedure is to be based and defines the most appropriate means to carry out the evaluation. GRETA adopts a questionnaire for each evaluation round which serves as the basis for the evaluation and is addressed to all parties.

The first evaluation round was launched in February 2010 and the questionnaire for this round was sent to all parties according to a timetable adopted by GRETA, which reflected the time of entry into force of the Convention for each party. GRETA organised country visits to all parties in order to collect additional information and have direct meetings with relevant actors, both governmental and non-governmental. By the beginning of 2014, most of the parties had been or were being evaluated for the first time, whilst the number of parties to the Convention continues to grow.

GRETA decided to launch the second evaluation round of the Convention on 15 May 2014. Following the first round of monitoring, which provided an overview of the implementation of the Convention by each party, GRETA has decided to examine during this new evaluation round the impact of legislative, policy and practical measures on the prevention of trafficking, the protection of the rights of victims of trafficking, and the prosecution of traffickers. The adoption of a human rights-based approach to action against trafficking in human beings remains at the centre of the second evaluation round. In addition, particular attention is paid to measures taken to address new trends in human trafficking and the vulnerability of children to trafficking. For the second evaluation round, GRETA has adopted a questionnaire to be sent to all states parties which have undergone the first round of evaluation, following a timetable approved by GRETA.

GRETA's reports are based on information gathered from a variety of sources and contain recommendations intended to strengthen the implementation of the Convention by the party concerned. In its recommendations, GRETA has adopted the use of three different verbs - "urge", "consider" and "invite" - which correspond to different levels of urgency of the recommended action for bringing the party's legislation and/or practice into compliance with the Convention. GRETA uses the verb "urge" when it assesses that the country's legislation or policy are not in compliance with the Convention, or when it finds that despite the existence of legal provisions and other measures, the implementation of an obligation of the Convention is lacking. In other situations, GRETA "considers" that it is necessary to make improvements in order to fully comply with an obligation of the Convention. By "inviting" a country to pursue its efforts in a given area, GRETA acknowledges that the authorities are on the right track.

As regards the procedure for the preparation of reports, GRETA examines a draft report on each party in a plenary session. The process of confidential dialogue with the national authorities allows the latter to provide, within two months, comments on GRETA's draft report with a view to providing additional information or correcting any possible factual errors. These comments are taken into account by GRETA when establishing its final report. The final report is adopted by GRETA in a plenary session and transmitted to the party concerned, which is invited to submit any final comments. At the expiry of the time-limit of one month GRETA's report, together with eventual final comments made by the national authorities, are made public and sent to the Committee of the Parties to the Convention.

I. Introduction

1. The first evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings ("the Convention") by Romania took place in 2010-2012. Following the receipt of Romania's reply to GRETA's first questionnaire on 31 August 2010, a country evaluation visit was organised from 23 to 27 May 2011. The draft report on Romania was examined at GRETA's 11th meeting (20-23 September 2011) and the final report was adopted at GRETA's 13th meeting (19-23 March 2012). Following the receipt of the Romanian authorities' comments, GRETA's final report was published on 31 May 2012.¹

2. In its first report on Romania, GRETA welcomed the steps taken to prevent and combat human trafficking, in particular the adoption of anti-trafficking legislation, the setting up of the National Agency against Trafficking in Persons, and the introduction of a National Identification and Referral Mechanism. However, GRETA considered that co-ordination and co-operation between governmental and non-governmental anti-trafficking actors at national and local level needed to be reinforced. In the area of prevention, while noting the substantial awareness-raising efforts, GRETA considered that the Romanian authorities should take additional measures to tackle the root causes of trafficking, especially through fostering access to education and jobs for vulnerable groups. Moreover, GRETA stressed the importance of improving the identification of victims of trafficking, through the provision of additional training to all relevant professionals, including border police staff. As regards assistance and protection measures, GRETA urged the Romanian authorities to ensure that all assistance measures provided for in law are guaranteed in practice and to ensure that assistance is not made dependent on the victim's willingness to co-operate with law enforcement agencies. Further, GRETA urged the Romanian authorities to ensure that victims of trafficking can effectively exercise their right to claim compensation from the perpetrators. In the area of investigation and prosecution, GRETA urged the Romanian authorities to step up proactive investigations, in particular concerning trafficking for the purpose of labour exploitation.

3. On the basis of GRETA's report, on 11 June 2012 the Committee of the Parties to the Convention adopted a recommendation to the Romanian authorities, requesting them to report back on the measures taken to comply with this recommendation by 11 June 2014.² The report submitted by the Romanian authorities was considered at the 14th meeting of the Committee of the Parties (7 July 2014). The Committee of the Parties decided to transmit the authorities' report to GRETA for consideration and to make it public.³

4. On 3 September 2014, GRETA launched the second round of evaluation of the Convention in respect of Romania by sending the questionnaire for this round to the Romanian authorities. The deadline for submitting the reply to the questionnaire was 3 February 2015. Romania submitted its reply on 15 April 2015.⁴

¹ Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Romania, GRETA(2012)2, available at:

<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680683a1d>

² Recommendation CP(2012)7 on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Romania, adopted at the 8th meeting of the Committee of the Parties on 11 June 2012, available at:

<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168063bc52>

³ Available at:

<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168063bc54>

⁴ Available at: <http://www.coe.int/en/web/anti-human-trafficking/romania>

5. In preparation of the present report, GRETA used the reply to the questionnaire by the Romanian authorities, the above-mentioned report submitted by them to the Committee of the Parties and information received from civil society. An evaluation visit to Romania took place from 12 to 16 October 2015 in order to hold meetings with relevant actors, collect additional information and assess the practical implementation of adopted measures. The visit was carried out by a delegation composed of:

- Mr Nicolas Le Coz, President of GRETA;
- Ms Vessela Banova, Member of GRETA;
- Mr David Dolidze, Administrator in the Secretariat of the Convention;
- Mr Mats Lindberg, Administrator in the Secretariat of the Convention.

6. During the visit, the GRETA delegation met officials from the Ministry of Administration and the Interior, the Ministry of Justice, the Ministry of Labour, Family and Social Protection, the Ministry of Education, Research, Youth and Sports, and the Ministry of Foreign Affairs. Discussions were also held with representatives of the National Agency against Trafficking in Persons, the National Agency for Equal Opportunities of Women and Men, the National Agency for Roma, the National Transplant Agency, the Directorate for Investigating Organised Crime and Terrorism (DIICOT) within the Prosecutor's Office, the specialised police unit for combatting human trafficking, and the Border Guards. Further, the GRETA delegation met judges and a Member of Parliament representing the Parliamentary Group on combatting human trafficking.

7. In addition to holding meetings in Bucharest, the GRETA delegation travelled to Timișoara and Cluj-Napoca where it met representatives of the public authorities and law enforcement bodies involved in combating trafficking.

8. Separate meetings were held with representatives of non-governmental organisations (NGOs), the Romanian Bar Association and officials from the local offices of the International Organization for Migration (IOM), the United Nations High Commissioner for Refugees (UNHCR) and United Nations Children's Fund (UNICEF).

9. In the course of the visit, the GRETA delegation visited two shelters for victims of trafficking, one operated by an NGO in Timișoara and the other one run by the National Authority for the Protection of Child Rights and Adoption in Cluj County, as well as a reception centre for unaccompanied children in Bucharest.

10. 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.

11. GRETA wishes to place on record the co-operation provided by the Romanian authorities and in particular by Mr Adrian Petrescu, Police Chief Commissioner, Head of the Monitoring, Research and Victims' Co-ordination Unit of the National Agency against Trafficking in Persons (ANITP) and Ms Ana-Maria Tamas, Sociologist-Police Officer of the Research and Public Information Centre of ANITP.

12. The draft of the present report was approved by GRETA at its 25th meeting (7-11 March 2016) and was submitted to the Romanian authorities for comments. The authorities' comments were received on 31 May 2016 and have been taken into account by GRETA when considering and adopting the final report at its 26th meeting (4-8 July 2016). The final report covers the situation up to 8 July 2016; developments since that date are not taken into account in the following analysis and conclusions. The conclusions summarise the progress made since the first report, the issues which require immediate action and the other areas where further action is needed (see pages 44-49).

II. Main developments in the implementation of the Convention by Romania

1. Emerging trends in trafficking in human beings

13. Romania is mainly a country of origin for victims of trafficking in human beings (THB). The total number of identified victims of THB in the period 2011-2015 was 4 622 (2011: 1 048; 2012: 1 041; 2013: 896; 2014: 757; 2015: 880). The majority of the identified victims were female (66%). The number of identified child victims was respectively 319 in 2011, 370 in 2012, 300 in 2013, 290 in 2014, and 316 in 2015. The prevailing form of exploitation of the victims in the reporting period was sexual exploitation (54% of the victims), following by labour exploitation (34%) and forced begging (6%). Further, there were 34 identified victims of THB for the purpose of the exploitation of criminal activities. The remainder of the cases concerned other, unspecified, forms of exploitation or attempted exploitation. The overwhelming majority of the victims were Romanian citizens, with the main countries of destination being Italy, Spain, Germany, France, Greece, Poland and the UK. The scale of internal trafficking, i.e. within Romania, has been on the rise, with some 35% of identified victims being trafficked internally in 2011-2014. As regards child victims, the share of internal trafficking was even higher (78%).

14. In the period 2011-2015, 15 foreign nationals were identified as victims of trafficking (seven from the Republic of Moldova, five from Bangladesh, one from Serbia, one from Greece and one from Poland). However, the procedures for identifying foreign victims of trafficking in Romania do not appear to be well developed. Despite media reports about foreigners being exploited in Romania, e.g. as domestic workers, in the absence of effective public control of their working conditions, the number of identified cases remains limited.

2. Developments in the legal framework

15. In its first evaluation report, GRETA considered that the Romanian authorities should review the criminal law provisions concerning THB and related offences, by conducting a thorough and comprehensive assessment of their effectiveness.

16. Since GRETA's first evaluation, several relevant legal acts have been amended, in particular Law No. 678/2001 on Preventing and Combating Trafficking in Human Beings (hereafter "Anti-Trafficking Law"), which remains the main legal document concerning prevention of THB and provision of assistance to victims of trafficking. The new Criminal Code (CC) and Criminal Procedure Code (CPC), which were adopted respectively in 2009 and 2010, entered into force in February 2014. As a result, the criminalisation of THB, which was previously part of the Anti-Trafficking Law, is now provided in Articles 182 (exploitation of persons), 210 (trafficking in persons), 211 (trafficking in children) and 367 (organised criminal group) of the CC. Further, the CPC contains provisions regarding serious offences, including THB, which are under the jurisdiction of the DIICOT.

17. In addition, Law No. 272/2004 on the Protection and Promotion of Children's Rights was amended and supplemented through Law No. 257/2013 which provides for special rules for the protection of children whose parents work abroad. Moreover, Law No. 292/2011 on Social Assistance contains provisions on social services for victims of THB (in particular, Articles 62 and 63). Amendments and supplements have also been made to Ordinance No. 25 of 26 August 2014 on the Employment of Foreigners in Romania and other acts on the status of foreigners in Romania, which entered into force on 28 November 2014.

18. The above-mentioned measures are discussed in greater detail in later parts of this report (see paragraphs 65, 105 and 161-165).

3. Developments in the institutional framework

19. The National Agency against Trafficking in Persons (ANITP) which co-ordinates, evaluates and oversees national anti-trafficking policy, remains subordinated to the Ministry of Administration and the Interior.⁵ ANITP has 15 regional offices. The number of staff employed by ANITP and its regional offices remains at 88, despite requests for additional posts and the fact that ANITP implements a number of projects with external financing.

20. The Inter-ministerial Working Group on Combating Trafficking in Persons referred to in paragraph 27 of GRETA's first report still formally exists, but has not been convened since 2010. ANITP has in practice taken over its responsibilities in developing, implementing and monitoring anti-THB policy. ANITP organises *ad hoc* meetings with members of the Inter-ministerial Working Group when considered appropriate. The last meeting organised by ANITP with the majority of stakeholders, including civil society actors, was held in 2014 to discuss the mechanism for data collection. Another meeting is planned to take place in the last quarter of 2016 to discuss the overlapping responsibilities of the Inter-ministerial Working Group and ANITP. The Thematic Working Group to co-ordinate activation for the protection and assistance of victims of trafficking mentioned in GRETA's first report on Romania has ceased to exist.

21. The Romanian authorities have informed GRETA that ANITP is, according to Government Decision 460/2011, acting as an "equivalent mechanism" in the sense of Article 19 of EU Directive 2011/36/EU.⁶ The 2012-2016 National Strategy against Trafficking in Persons in its objective 4 on data collection foresees the creation of a National Rapporteur institution, but the Government has not pursued this due to lack of financial means. In their comments on the draft GRETA report, the Romanian authorities have indicated that discussions with the participation of ANITP and relevant ministries about whether to establish a separate National Rapporteur or let ANITP continue fulfilling this function are foreseen for the third quarter of 2016.

22. GRETA would like to stress that Article 29 of the Convention makes a clear distinction between National Co-ordinator and National Rapporteur. In GRETA's view, the key features of National Rapporteurs' mechanisms in the sense of Article 29, paragraph 4, of the Convention⁷ should be the ability to critically monitor the efforts and effectiveness of all state institutions, including national co-ordinators, and to that end maintain a constant exchange with civil society, the research community and other relevant stakeholders. The human rights-based approach to anti-trafficking policies advocated by the Convention requires adequate monitoring and evaluation. A structural separation between monitoring and executive functions enables an objective evaluation of the implementation of anti-human trafficking legislation, policy and activities, identification of lacunae and shortcomings, and the formulation of comprehensive legal and policy recommendations.⁸ GRETA considers that the Romanian authorities should keep under review the effectiveness of ANITP in fulfilling the role of a National Rapporteur or equivalent mechanism, and examine the possibility of designating as a National Rapporteur a separate organisational entity or another independent mechanism for monitoring the anti-trafficking activities of State institutions.

⁵ For more details about ANITP's tasks, see paragraphs 21-26 in GRETA's first report on Romania.

⁶ "Member States shall take the necessary measures to establish national rapporteurs or equivalent mechanisms. The tasks of such mechanisms shall include the carrying out of assessments of trends in trafficking in human beings, the measuring of results of anti-trafficking actions, including the gathering of statistics in close cooperation with relevant civil society organisations active in this field, and reporting."

⁷ "Each Party shall consider appointing National Rapporteurs or other mechanisms for monitoring the anti-trafficking activities of State institutions and the implementation of national legislation requirements."

⁸ In this context, see also the Summary report on the Consultative Meeting on Strengthening Partnerships with National Rapporteurs on Trafficking in Persons and Equivalent Mechanisms organised by the UN Special Rapporteur on trafficking in persons, especially in women and children, in Berlin, 23-24 May 2013.

23. Through Government Decision 299/2014 the Department for Child Protection of the Ministry of Labour, Family, Social Protection and the Elderly was reorganised as the National Authority for Child Protection and Adoption, with legal personality, while its responsibilities in the anti-trafficking field were maintained.

24. The DIICOT within the Prosecutor's Office attached to the High Court of Cassation remains the main body investigating and prosecuting organised crimes, including THB. It is headed by a chief prosecutor.⁹ Apart from DIICOT, the Department for Countering Trafficking in Persons within the Police (DCCO) is specialised in investigating THB cases. The DCCO has 15 offices at territorial level within the Brigades for Combating Organised Crime, and 27 units at county level within the Services for Combating Organised Crime.

4. National Strategy and Action Plans

25. At the time of GRETA's first evaluation, Romania was preparing a National Strategy for 2011-2015 which eventually became a strategy for 2012-2016, accompanied by National Action Plans for 2012-2014 and 2015-2016.

26. The main objectives of the 2012-2016 Strategy are to: 1) promote prevention activities and involve civil society in their implementation; 2) improve the quality of protection and assistance measures for victims of trafficking; 3) improve the capacity to investigate trafficking offences, including financial investigations; 4) enhance data collection capacity with regard to THB; and 5) improve and extend inter-institutional and international co-operation against THB. The Strategy aims to address difficulties such as inaccurate reporting about THB by the media, increased vulnerability to THB among certain groups due to worsening financial conditions, as well as reduced capacities within the assistance system for trafficking victims, together with insufficient knowledge about the National Identification and Referral Mechanism among the institutions responsible for implementing it.

27. The implementation of the National Strategy and the related National Action Plans is funded through the budgets of the responsible ministries and agencies, EU funds and foreign donors. The Romanian authorities could not specify the amount spent annually on anti-trafficking activities linked to the implementation of the National Strategy, but it would appear that the funding is not sufficient and/or is not made available in a timely manner.

28. As noted in paragraph 19, ANITP monitors and evaluates the implementation of anti-THB activities in Romania. ANITP's monitoring of the implementation of the National Strategy and Action Plans showed that in 2012-2013, one third of the foreseen activities were not implemented due to lack of financing. According to ANITP, these activities were not cancelled, but were postponed until funding became available. GRETA considers that the Romanian authorities should ensure that the budget allocated to action against THB is adequate to cover the measures foreseen in the National Strategy and Action Plans.

5. Training of relevant professionals

29. In its first report on Romania, GRETA stressed the need for multidisciplinary training and considered that training should be used to overcome entrenched negative attitudes and prejudices vis-à-vis victims of trafficking, including those of Roma origin, and that the authorities should aim at developing skills for proactive investigations into THB cases, particularly in the field of THB for the purpose of labour exploitation.

⁹ For a more detailed overview of DIICOT's competencies, see: <http://www.diicot.ro/images/documents/english%20presentation.pdf>

30. In the 2012-2016 National Strategy against THB, a specific objective under the general objective of improving the capacity to investigate THB is to ensure the continuity and sustainability of training programmes for experts of law enforcement bodies. The Romanian authorities have indicated that training needs are defined as part of initial or continuous training, in the context of international projects or *ad hoc* with the identification of institutional needs and in relation to European requirements and standards (FRONTEX, CEPOL). Training activities often involve trainers from abroad or training sessions take place with foreign counterparts abroad, on a bilateral or multilateral basis.

31. As regards police training, from 21 to 25 October 2013 the Institute for Public Order Studies in Bucharest delivered a course on trafficking in persons within the "International Technical Co-operation Programme". It was attended by 20 staff of the DIICOT and the territorial Brigades for Combating Organised Crime. Further, in 2014, refresher courses on combating human trafficking were held for 27 police officers. In addition, in 2013 the Multifunctional Schengen Training Centre in Ploiești organised courses related to action against THB on the following subjects: "Cross-border supervision and pursuit" (for 27 police officers from the General Directorate of Bucharest Police and county police departments); "Preventing and combating cross-border crime" (for 31 police officers from the General Directorate of Bucharest Police and county police departments); and "Common policies on visas and residence permits for citizens of third countries" (for 17 police officers of the Department of European Affairs, Programmes and International Relations, the National Office for Witness Protection and county police departments). During the reporting period, border guards were trained on the use of indicators for detecting possible victims of trafficking, taking into account gender, age and other relevant aspects (see paragraph 92).

32. The National Institute of Magistracy is responsible for the initial and continuous training of judges and prosecutors. Training regarding THB is not mandatory for judges and prosecutors, but the Institute makes self-learning materials available online. In 2012-13, the Prosecutor's Office attached to the High Court of Cassation and Justice, together with the Ministry of Interior and the National Institute of Magistracy, and in collaboration with France's Ministry of Justice, Ministry of the Interior and *École Nationale de la Magistrature*, developed a project entitled "Strengthening the institutional capacity of the Romanian and French authorities to combat trafficking in persons". Within this project, 20 French and Romanian judges, prosecutors, police officers and gendarmes were trained to become trainers and a manual of best practices in combating THB was disseminated. The project facilitated contacts between judges, prosecutors and law enforcement officials in the two countries.

33. In order to raise awareness about THB and improve the capacity for early identification of victims of trafficking, the regional authorities organise training sessions for professionals who may come into contact with potential victims of trafficking. Among the professionals trained are police officers, teachers, school inspectors, psychologists, social workers, educational counsellors and priests.

34. The National Authority for Child Protection and Adoption has provided training for professionals working with child victims of trafficking. The provision of training is the responsibility of the local authorities who are the direct providers of services to child victims of trafficking.

35. Civil society is a significant provider of training for relevant professionals. For example, the NGO *Terres des Hommes* has provided THB-relevant training for staff who may come into contact with vulnerable children. Further, the NGO *Reaching Out* provides training to police officers and prosecutors on how to interview female victims of trafficking.

36. Despite the training activities mentioned above, GRETA's observations from the second evaluation visit suggest that there is a need for further training concerning THB, including on the new CC provisions on human trafficking. GRETA notes that labour inspectors have not received training on identifying victims of trafficking for the purpose of labour or other forms of exploitation. In their comments on the draft GRETA report, the Romanian authorities have indicated that training for labour inspectors is foreseen within a new 21-month project called "Human trafficking – a victim-centred approach" (see paragraph 97).

37. While welcoming the training provided, GRETA considers that the Romanian authorities should continue and increase their efforts to train relevant professionals on human trafficking and victims' rights, in particular police officers, social workers, child care professionals, prosecutors, judges and medical staff. The training should aim, *inter alia*, at combatting negative attitudes and prejudice towards victims of THB, including those of Roma origin and women.

6. Data collection and research

38. In its first report on Romania, GRETA welcomed the setting up of a data collection system on THB and considered that the Romanian authorities should pursue their efforts in improving the collection of statistical data on compensation granted to victims of THB and that the Ministry of Justice should analyse the data collected on investigations, prosecutions and convictions.

39. The National Integrated System to Monitor and Assess Trafficking in Persons (SIMEV), which is managed by ANITP on the basis of data provided by relevant institutions, including the Superior Council of Magistracy, remains an important tool for understanding the scale and trends of THB, monitoring the assistance provided to victims, disseminating data and designing new policies. Most of the figures referred to in this report, in particular those in paragraph 13, have been provided by SIMEV.

40. In 2013 ANITP participated in the project TRAFSTAT (Tools for the validation and utilisation of EU statistics on trafficking in persons), implemented by Tilburg University, the Autonomous University of Barcelona and the University of Lausanne. The project, funded by the European Commission, aimed at improving and promoting comparability of European statistics on trafficking in persons by providing a mechanism for this purpose.

41. One of the objectives in the National Strategy for 2012-2016 is to increase the capacity for collecting and analysing data on trafficking in persons. In their comments on the draft GRETA report, the Romanian authorities have indicated that there are currently discussions between ANITP, DCCO and DIICOT on establishing the way in which the data regarding THB could be integrated into the already available data collection systems. GRETA invites the Romanian authorities to pursue their efforts to maintain a comprehensive and coherent statistical system on trafficking in human beings by compiling reliable statistical data from all main actors on measures to protect and promote the rights of victims as well as on the investigation, prosecution, convictions and compensation in human trafficking cases. This should be accompanied by all the necessary measures to respect the right of data subjects to personal data protection.

42. There is no specific research budget within the overall ANITP budget and research activities are funded from the general budget as considered appropriate. Several externally funded projects implemented by ANITP in recent years have involved research (with funding amounting to between 25 000 and 50 000 Euros).

43. In 2014-2016, ANTIP took part in the TRACE (Trafficking as a Criminal Enterprise) research consortium, funded by the EU, which produced a number of reports, including on the management of victims by traffickers, trafficking routes, and traffickers' operating modes for different forms of exploitation.¹⁰ The research regarding traffickers aimed at establishing their socio-demographic profile and finding out about their incentives. In Romania, the research targeted approximately 200 traffickers, information being collected through oral interviews or written questionnaires from 63 inmates in six Romanian prisons, as well as from criminal files.

44. Further, under the Swiss-Romanian Co-operation Programme for reducing economic and social disparities within the enlarged EU, ANITP conducted research and published a study entitled "Trafficking in persons for begging: Romania study" in 2013.¹¹

45. Research into THB is also carried out by NGOs, such as Terre des Hommes research on how child victims of THB are recruited in the cities of Constanta and Braila.¹² Another example is the three-year project "Promotion of the rights of trafficked persons in Bulgaria, Romania and Slovakia with emphasis on legal support - a human rights-based approach", designed and co-ordinated by the Netherlands Helsinki Committee.¹³ The report on Romania, which was developed by the Pro Refugiu Association, looks at the legal provisions pertaining to the position of victims/witnesses of human trafficking and their implementation in practice, based on the experience of NGOs and information from interviews with victims.¹⁴ Reference can also be made to another EU-funded research, carried out by the Bulgarian Centre for the Study of Democracy, entitled "Childtrafficking among vulnerable Roma communities", which was conducted in seven EU member states, including Romania.¹⁵ The study researched child trafficking for the purpose of forced begging, pickpocketing and sexual exploitation of boys.

46. While welcoming the above-mentioned research efforts, GRETA considers that the Romanian authorities should continue to conduct and fund research on THB-related issues as an evidence base for future policy measures. Areas where such research is needed in order to shed more light on the extent and nature of the problem of THB include trafficking of foreign nationals to Romania and trafficking in Roma communities.

¹⁰ TRACE (TRafficking as A Criminal Enterprise) was a two-year project funded by the EU (May 2014- May 2016) which aimed at supporting stakeholders in combating and disrupting human trafficking by assessing and consolidating information surrounding the perpetrators and the wider trafficking enterprise. See <http://trace-project.eu/>

¹¹ Available at: https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/trafficking_in_persons_for_begging_-_romania_study_0.pdf

¹² Available at [http://childhub.org//child-protection-online-library/diagnosis-minors-originating-braila-and-constantia-who-are-victims?listlang\[\]=***CURRENT_LANGUAGE***&language=](http://childhub.org//child-protection-online-library/diagnosis-minors-originating-braila-and-constantia-who-are-victims?listlang[]=***CURRENT_LANGUAGE***&language=)

¹³ Marijan Wijers, *Position of victims of trafficking in human beings in criminal and other legal proceedings in Bulgaria, Slovakia and Romania: A Human Rights Based Approach*, November 2015.

¹⁴ Associatia Pro Refugiu, *Legal Analysis of the Rights of Trafficked Persons: Romania*, 2015, available at: <http://prorefugiu.org/wp-content/uploads/2014/11/National-Report-EN-Version.pdf>

¹⁵ Available at http://childrentrafficking.eu/wp-content/uploads/2014/04/CONFRONT_NEW_WEB.pdf

III. Article-by-article findings

1. Prevention of trafficking in human beings

47. In its first evaluation report on the implementation of the Convention by Romania, GRETA welcomed the efforts of the Romanian authorities in the area of prevention of THB and considered that future action in the area of awareness raising should be designed in the light of the assessment of previous measures and focused on the needs identified. In this context, GRETA stressed that measures should be taken to combat stereotypes and prejudice towards victims of THB, in particular women and Roma.

a. Measures to raise awareness of THB (Article 5)

48. Since the first GRETA evaluation, ANITP has organised awareness-raising activities as regards the main forms of THB for different categories of vulnerable persons (including children, women and Roma). In 2012 and 2013, ANITP implemented a total of 91 awareness-raising events ("campaigns"), of which 12 were organised at national level and 79 at regional or local level. The awareness-raising events were tailored to address the characteristics of the particular area. The implementation tools were both "classical" (meetings, posters, flyers, audio-video spots, distribution of materials with anti-trafficking messages and information) and Internet-based, such as using Facebook and online contests. According to ANITP, the number of direct beneficiaries of the awareness raising was estimated at around 250 000 and the number of indirect beneficiaries, at around 1.5 million people. Further, there were 2.5 million registered beneficiaries of the messages and recommendations online.¹⁶ However, it appears that there are less awareness-raising efforts in rural than in urban areas, despite the fact that many victims of trafficking originate from rural areas.

49. Two impact assessments of the awareness-raising campaigns against THB have been conducted during the reporting period. One of them assessed campaigns aimed at raising awareness of THB for both labour and sexual exploitation¹⁷ and the other one focused on campaigns targeting THB for the purpose of labour exploitation (see paragraph 52). Both impact assessments found that the campaigns had reached a large number of beneficiaries, including people at risk of falling victim to traffickers. The conclusions of the two assessments were almost identical, demonstrating that TV and radio broadcasts proved to be the most effective means of reaching the target groups. Another conclusion was that Romania is to a certain extent a country of destination of victims of trafficking and this needs to be reflected in the design of future prevention campaigns. A further conclusion was that the existence of trafficking for the purpose of labour exploitation is less well known than trafficking for sexual exploitation and may not be recognised as a criminal activity.

50. Civil society is actively involved in awareness raising. By way of example, the NGO Ratiu Centre for Democracy works on advocacy and reduction of exploitation in the hospitality sector.

51. While welcoming the efforts made in the area of raising awareness of THB, GRETA considers that the Romanian authorities should reinforce their efforts, paying particular attention to rural areas, internal trafficking and current trends in THB in Romania. The authorities should design future awareness-raising activities in the light of impact assessment of previous measures, focusing on the needs identified.

¹⁶ This figure corresponds to the number of "hits" on information material online, number of pupils in schools targeted and number of passengers in public transport where campaign messages are displayed.

¹⁷ Prepared under the Swiss-Romanian Co-operation Programme.

b. Measures to prevent THB for the purpose of labour exploitation (Article 5)

52. In the framework of the project “Integrated approach for prevention of labour exploitation in origin and destination countries”, co-financed by the EU, a transnational prevention campaign under the slogan “Work is a right. Exploitation is a crime” was implemented simultaneously in six countries (Romania, Bulgaria, Greece, Cyprus, Hungary and “the former Yugoslav Republic of Macedonia”).¹⁸ The campaign materials included USB sticks, posters, brochures, radio and TV spots, a dedicated Facebook page, direct meetings with target groups, press releases and articles. The campaign message was broadcast over 30 000 times in the countries covered by the project. In Romania, the campaign aimed at informing vulnerable persons about THB, the conditions to be met in order to work abroad and ways in which Romanian nationals can be supported outside their country. As part of the campaign, meetings were held at several faculties of the University of Bucharest, the University Politehnica, the University of Medicine and Pharmacy, the Dimitrie Cantemir University and the Titulescu University. Meetings were also held with students from high schools of arts and crafts.

53. As noted in paragraph 49, the impact assessment of the awareness-raising campaign against THB for labour exploitation found that this form of THB was not sufficiently known or recognised as a criminal activity.

54. As part of its activities, the Labour Inspectorate checks the legality of employment of Romanian and foreign nationals. However, labour inspectors are not allowed by law to access private households and thus cannot inspect working conditions of domestic workers. In fulfilling their mandate, labour inspectors organise joint actions with the General Inspectorate for Immigration and in case of suspicion of THB, they would inform ANITP which in turn would inform the DIICOT. GRETA was informed that some 100 000 labour inspections were carried out in 2012-2013 and a number of illegally employed third-country nationals, mostly of Chinese and Turkish origin, were detected.

55. The Labour Inspectorate also supervises the compliance of Romanian private employment agencies offering employment abroad with the provisions of Law No. 156/2000 on the Protection of Romanian Nationals Working Abroad. The licencing of private employment agencies offering jobs abroad is not mandatory and many of them are not licensed. Such agencies are, however, obliged to show labour inspectors actual job vacancies or requests from employers abroad, which must contain information about wages and working hours. In their comments on the draft GRETA report, the Romanian authorities have indicated that the Labour Inspectorate had developed proposals for amending Law No. 156/2000. The main proposals aim at eliminating the fees charged by employment agencies to job applicants and a mandatory licensing of such agencies. Further, the Labour Inspection organises national campaigns in order to check compliance with the legislation by employment agencies that facilitate jobs abroad and raise awareness of the risks and negative consequences of trafficking for the purpose of labour exploitation.

¹⁸ The partners in this campaign were ANITP, the European Public Law Organisation of Greece, the Ministry of the Interior of Hungary, the National Commission for Combating Trafficking in Persons of Bulgaria, the Cypriot NGO KISA and the Ministry of the Interior of “the former Yugoslav Republic of Macedonia”.

56. While welcoming the steps taken in Romania since the first evaluation to prevent trafficking for the purpose of labour exploitation through raising awareness about this phenomenon, GRETA urges the Romanian authorities to intensify their efforts, in particular by:

- training labour inspectors, law enforcement officers, prosecutors and judges about THB for the purpose of labour exploitation and the rights of victims;
- expanding the mandate of labour inspectors so that they can be actively engaged in the prevention of THB, including in domestic households;
- strengthening the monitoring of recruitment and temporary work agencies and supply chains and reviewing the legislative framework for any loopholes that may limit protection or preventive measures;
- working closely with the private sector, in line with the Guiding Principles on Business and Human Rights.¹⁹

c. Measures to prevent trafficking in children (Article 5)

57. In its first report on Romania, GRETA considered that the Romanian authorities should pursue their efforts to strengthen the prevention of trafficking in children, in particular through the recording of all children in the civil register and by finding solutions for children left behind by their parents who have gone abroad to work, as well as children in street situations.

58. Raising awareness of THB amongst children is done through the educational system. For example, in the first semester of the school year 2013-2014, about 1 000 local and regional awareness-raising activities were held, involving 155 000 students, 6 700 teachers and 2 200 parents. In the first semester of the school year 2015-2016, 841 activities were organised involving 150 000 students and parents and 7 200 teachers.

59. The campaign "Trafficking explained to children" was conducted by ANITP in partnership with the Child Helpline Association from April to June 2012 and was aimed at children, parents and teachers in rural areas. By means of direct meetings children were informed about the risks of trafficking and the opportunity to request help through the Hotline 0800.800.678 managed by ANITP. The hotline remains in use and in the period 2012-2015 the average number of calls per year was approximately 950.

60. From March to May 2013 ANITP, in partnership with the Child Helpline Association and the Institute for Crime Prevention within the General Inspectorate of Romanian Police, implemented a prevention project entitled "Where begging starts, childhood ends". The project, which was funded by the Embassy of France in Romania, aimed at raising awareness of the negative effects begging has on children. The project was implemented in rural communities in five counties, covering 500 children (aged 8-14 years) and 120 police officers, mayors, counsellors, school inspectors and social workers

61. A project called "Increasing the capacity of the education system in the field of prevention of trafficking in human beings" was conducted from August 2015 to May 2016 by the Child Hotline Association, in partnership with ANITP and with funding from the Embassy of the Netherlands. The campaign trained 40 teachers from the regions of Muntenia and Dobrogea who will subsequently carry out prevention activities for 2 000 students.

62. The NGO Save the Children has developed a code of conduct for the tourist industry with the aim of reducing demand for sexual services from children. An updated version of this code was prepared in 2015 and will be disseminated in 2016.

¹⁹

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

63. Law No. 248/2005 on the Freedom of Movement of Romanian Citizens establishes the conditions under which Romanian citizens, including children, can travel abroad. According to this law a child who travels outside Romania not accompanied by both its parents needs an *affidavit*, prepared by a notary, explaining the purpose of the travel and certifying with whom the child is allowed to travel.²⁰ According to a report by the NGO Terre des Hommes entitled “Entrusted children” there is little evidence that the *affidavit* system helps to prevent trafficking in children as it lacks important elements such as information about the expected date of return of the child, the child’s photograph and information in languages other than Romanian.²¹

64. Within the project entitled “Joint action to protect Central and South East European migrant children from abuse, exploitation and trafficking in Europe”, implemented by the NGO Terre des Hommes, a seminar entitled “Conditions of exit from the country and entry into the country for Romanian children - Prevention of child trafficking” was organised with the participation of 30 public notaries.²² It aimed at improving awareness and skills of public notaries in identifying potential trafficking situations in the context of children travelling abroad.

65. As noted in paragraph 17, Law No. 272/2004 on Protection and Promotion of Child Rights was amended and supplemented by Law No. 257/2013. The amendments clarified the role of each institution involved in providing children with identity documents.²³ Pursuant to this law, the child shall be registered immediately after birth and the birth certificate issued within 24 hours of birth. When the birth takes place outside a health facility, the family doctor is requested to ascertain the birth within 24 hours and issue a birth certificate. However, GRETA was informed that there are still a number of cases of non-registration of Roma children at birth, rendering such children vulnerable to THB. This problem is highlighted in the research carried out by the NGO Terre des Hommes regarding child victims of trafficking originating in the Romanian cities of Brăila and Constanța.²⁴

66. The need to address the vulnerable situation of children in street situations is reflected in the National Strategy for the Protection and Promotion of Child Rights 2014-2020. The Strategy aims at establishing the scale of this phenomenon and reducing it through strengthening social street services by mobile teams of the General Department of Social Assistance and Child Protection and developing shelters and urgent reception centres for children in street situations.

67. Another issue of concern is school dropout, which in 2013 increased to 17.5% according to a national study conducted by UNICEF in collaboration with the Ministry of Education, Ministry of Labour, the National Statistics Institute and the Institute of Education Sciences.²⁵ Civil society representatives referred to a school drop-out rate of about 24 000 children per year and some 400 000 school-aged children not attending school. School dropout affects disproportionately the Roma community and is particularly high in rural areas. GRETA welcomes the “Second Chance” programme which aims, *inter alia*, at reintegrating children and adults in the education system, including victims of trafficking.²⁶

²⁰ See paragraph 108 of GRETA’s first report on Romania.

²¹ The report was produced within the project “Improving co-ordination and accountability towards Romanian unaccompanied minors’ safety” (ICARUS), co-financed by the Prevention of Crime Programme of the EU.

²² Joint action to protect migrant children in Central and South Eastern Europe against abuse, exploitation and trafficking in Europe, implemented by Terre des Hommes Lausanne Foundation, conducted in 16 countries, along with a network of 19 partner organisations (partner organisations in Romania: Save the Children and Terre des Hommes).

²³ MMFPSPV, National Authority for Child Rights Protection and Adoption.

²⁴ Available at [http://childhub.org/child-protection-online-library/diagnosis-minors-originating-braila-and-constanta-who-are-victims?listlang\[\]=***CURRENT_LANGUAGE***&language=](http://childhub.org/child-protection-online-library/diagnosis-minors-originating-braila-and-constanta-who-are-victims?listlang[]=***CURRENT_LANGUAGE***&language=)

²⁵ <http://www.romania-insider.com/school-dropout-rate-up-to-17-5-in-the-last-years-in-romania-poverty-is-among-main-causes/99791/>

²⁶ <http://www.secondchanceromania.ro/>

68. ANITP as part of its awareness-raising activities directed at school children warns against the dangers which children may face in the Internet and in particular by using social networks. The NGO Save the Children maintains a website with information about potential dangers which users may encounter on the Internet.

69. Given that the number of identified child victims of trafficking has increased considerably during the reporting period and that the majority of victims stem from rural areas, GRETA urges the Romanian authorities to intensify their efforts to prevent trafficking in children, in particular by sensitising and training child protection professionals across the country, raising awareness of children through education, and paying special attention to Roma communities and migrant children.

70. GRETA also considers that the Romanian authorities should continue taking steps to ensure that all children are registered at birth.

71. Moreover, GRETA considers that the Romanian authorities should take further steps to prevent online recruitment of children, including by co-operating with Internet service providers and raising the awareness of children, parents and education professionals of the risk of recruitment for THB through the Internet.

d. Social, economic and other initiatives for groups vulnerable to THB (Article 5)

72. In its first report, GRETA considered that efforts to prevent human trafficking should be stepped up as part of a long-term approach aimed at tackling the root causes of trafficking, especially through fostering access to education and jobs for vulnerable groups, particularly women and Roma, and combating stereotypes and prejudice towards victims of THB.

73. Law No. 202/2002 on Equal Opportunities and Treatment of Men and Women has been amended over the years. Through Government Decision No. 250 of 2 April 2014, the Directorate of Equal Opportunities of Men and Women was established with the mission to develop specific national policies in the field of equality between women and men, in order to change attitudes and eliminate gender-based discrimination. Further, a National Strategy in the field of equality between women and men for the period 2014-2017 was adopted. Its main areas of intervention are education (including combatting gender roles and stereotypes), the labour market, combating gender violence and balanced participation of women and men in decision making.

74. In the period 2014-2015, the Directorate of Equal Opportunities of Men and Women ran the START Project aimed at developing a system to prevent and combat domestic violence and THB. The project addressed a target group of around 10 000 people, including 5 000 people from vulnerable groups (4 000 victims of domestic violence and 1 000 children in risk situations), 50 victims of trafficking, 3 000 experts from public bodies responsible for preventing and combating domestic violence and THB, 500 managers and 500 staff from central and local public authorities. Apart from awareness-raising, the project aimed at improving the skills of relevant professionals and training materials were produced.

75. According to different interlocutors met by GRETA during the second visit to Romania, there is a disproportionate share of Romanian victims of trafficking originating from the Roma community, but it was not possible to corroborate this as Romanian legislation does not allow the disaggregation of data by ethnicity. The National Agency for Roma Population has awarded grants to local authorities working in partnerships with NGOs for projects in thematic areas, such as promoting and affirmation of cultural rights of the Roma minority, education and child protection, combating discrimination, and promoting health and health education. Among the priority areas funded through this mechanism, reference can be made to information campaigns and education to prevent early marriages, child abuse and neglect, and the phenomenon of "children in street situations".

76. As noted in preceding paragraphs, ANITP has conducted a series of national campaigns and preventive actions for vulnerable groups, such as children at risk (“Trafficking explained to children”), Roma communities, (“Where begging starts, childhood ends”) and homeless people (“Get involved by getting informed TODAY!”). Further, the Ministry of Labour, Family, Social Protection and the Elderly has organised a number of activities, such as the project “Empowerment of Roma women on the labour market”.²⁷

77. A national prevention campaign aimed of reducing the risks associated with trafficking in human beings within vulnerable communities, including Roma, was implemented in the autumn of 2015 - spring of 2016 as part of the project “Best practice model on assistance for victims of trafficking in human beings - pilot project” funded by Norway Grants.²⁸ According to the Romanian authorities, the campaign reached an audience of over 36 000 people, including school children, students and teachers living in communities with a significant Roma population. The campaign included direct meetings with representatives of the target groups in both urban and rural areas, street events, a theatre play, production of printed materials and a documentary, posting of campaign materials on public transport vehicles and other places with high visibility, and drawing competitions and exhibitions.

78. GRETA considers that the Romanian authorities should increase their efforts to prevent THB through social, economic and other measures for groups vulnerable to THB, including through outreach work in Roma communities. Further efforts should be made to promote gender equality, combat gender-based violence and stereotypes, and support specific policies for the empowerment of women as a means of combating the root causes of THB.

e. Measures to prevent trafficking for the purpose of organ removal (Article 5)

79. GRETA notes that while trafficking in human beings for the purpose of organ removal as defined by the Convention and organ trafficking as defined by Articles 4 to 8 of the Council of Europe Convention against Trafficking in Human Organs²⁹ are distinct crimes, they share similar root causes, such as shortage of organs to meet demand for transplantation and poor economic and other conditions that put persons in a vulnerable position. Therefore, measures to prevent organ trafficking can help prevent trafficking for the purpose of organ removal and the reverse is also true.³⁰ Among the necessary preventive measures, GRETA underlines the importance of a robust and transparent domestic system for the removal and transplantation of human organs and the need for training of health-care professionals. GRETA also stresses the importance of conducting a thorough investigation of each case where there is information or suspicion of trafficking for the purpose of organ removal, paying attention to the abuse of the vulnerability of the “donor” and ensuring that “donors” are treated as victims of trafficking in human beings.

²⁷ For more details, see:

<http://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168063bc54>

²⁸ Project reference VC 3107– RO 20 PA29, Norwegian Financial Mechanism 2009-2014, Romania 20, Programme Area 29 Domestic and Gender-based violence.

²⁹ Opened for signature on 25 March 2015 in Santiago di Compostela, Spain.

³⁰ See “Trafficking in organs, tissues and cells and trafficking in human beings for the purpose of the removal of organs”, Joint Council of Europe/United Nations Study (2009), in particular pages 55-56 ; “Trafficking in human beings for the purpose of organ removal in the OSCE region: Analysis and Finding”, OSCE Occasional Paper No. 6 (2013).

80. In Romania, trafficking in human beings for the purpose of organ removal is criminalised under Article 210 of the CC. The trafficking of organs is criminalised by Article 158 of Law No. 95/2006 on the Healthcare Reform as follows: "(1) The organisation and/or performing of the removal of organs and/or tissues and/or cells of human origin for transplantation purposes, for the donor or the organiser to gain material profits constitutes the crime of trafficking in organs and/or tissues and/or cells of human origin and is punishable with imprisonment from three to 10 years; (2) The same punishment is also valid for the purchase of organs, tissues and/or cells of human origin for resale in order to make a profit; (3) The attempt shall be punishable".

81. Organ transplants are governed by Chapter IV of Law No. 95/2006 on the Healthcare Reform, which stipulates in detail the terms of removal of organs, tissue and cells from living donors, including the procedures for recording and monitoring living donors. Children may not serve as donors of organs, tissue or cells, with the exception of stem cells and hematopoietic bone marrow, provided that the recipient is a relative of up to the fourth degree of the child.

82. A National Transplant Registry was established to manage donor and recipient data according to Order No. 477/2009 of the Minister of Health. Further, Order No. 1170/2014 of the Minister of Health sets out the procedures for giving consent for organ donation and Order No. 860/2013 of the Minister of Health sets out the accreditation criteria for hospitals performing organ transplants. The institutions which supervise and monitor the medical care and recovery of donors and recipients are the National Transplant Agency and the Ministry of Health.

83. The Romanian authorities recognise that there might be some legislative inconsistencies as regards the criminalisation of unlawful removal of organs and the National Transplant Agency has proposed certain legislative amendments, such as criminalising the carrying out of organ transplants in non-accredited facilities. GRETA notes that Romania has not signed the Council of Europe Convention against Trafficking in Human Organs.

84. The National Transplant Agency organises training courses for medical staff involved in transplantation activities at least twice a year. These courses include a module on legislation, including legislative updates in the field, and information on how to prevent this form of THB and on how to report suspect cases.

85. There have been no identified cases of trafficking in persons for the purpose of organ removal in Romania.

86. GRETA welcomes the efforts made to sensitise health-care professionals to THB for the purpose of organ removal and invites the Romanian authorities to continue these efforts through providing regular training of medical professionals involved in organ transplantations and other relevant professionals.

f. Measures to discourage demand (Article 6)

87. In 2013-2014, ANITP was involved in the implementation of the NO Project, a global educational campaign that specifically targets youth awareness of human trafficking through music, art, dance, film, animation, sport, creative writing and social media.³¹ The project in Romania was supported by Bancpost, in partnership with the Association for Development of Alternative Practices for Reintegration and Education and the Liberation Association. The target group was young people aged between 14 and 30.

³¹ <http://thenoproject.org/>

88. In order to discourage demand for services provided by victims of trafficking, in 2013 ANITP together with the NGO Caritas carried out a project called "Combating trafficking in persons and sex tourism". The project was co-financed by the European Commission. The target groups were students and their parents, governmental and nongovernmental actors operating at local level, potential clients of trafficked persons and the general public.

89. Further, in 2014 ANITP launched the campaign "Exploitation kills souls". The campaign aimed at reducing demand by informing target groups and the general public about the abuse of victims of THB, the methods of their recruitment and the penalties provided by law. The campaign was mainly carried out online, using social media networks. Recruitment agencies were also targeted in the context of preventing THB for the purpose of labour exploitation (see paragraph 52).

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

g. Border measures (Article 7)

91. In its first report on Romania, GRETA considered that the Romanian authorities should make further efforts to detect cases of THB in the context of border control measures as well as to reinforce the security of identity, visa and travel documents to prevent and detect trafficking. GRETA further considered that the Romanian authorities should provide the Border Police with the necessary human and financial resources to ensure that it can duly play its role in the identification and referral of victims of THB.

92. The Border Police are regularly trained in matters of human trafficking, including identification methods and referral of victims, with the help of the manual developed by FRONTEX.³² A total of 90 border police officers have participated in six training sessions using this manual. The manual was also included in the training materials used in continuous training of officers within each structure of the Border Police. Further, six training sessions on fundamental rights were attended by 160 staff of the first and second lines of control of airport, land and sea Border Police, using another manual developed by FRONTEX.³³ Updated trafficking indicators and information on the National Identification and Referral Mechanism are periodically distributed to border guards.

93. The Ministry of Foreign Affairs provides Romanian nationals travelling abroad with the application for smart phones "Travel safely" which is part of the Ministry's strategy to diversify consular services and means of communication with the Romanian nationals. This application allows Romanian nationals to get updated information on the country of destination (e.g. conditions, recommendations, travel alerts, Romanian diplomatic missions), to be able to alert the nearest Romanian diplomatic/consular mission in case of an emergency, and to quickly find out what the procedures are in case of accident, illness or loss of documents. As regards Romanian children travelling abroad, reference is made to the *affidavit* system described in paragraph 63 and the concerns raised about its effectiveness.

94. In the period 2011-2015 a total of 128 presumed victims of trafficking were detected by the Border Police (71 in 2011, 22 in 2012, 14 in 2013, 16 in 2014, 5 in 2015).

95. GRETA welcomes the training on THB provided to the Border Police and the detection of victims of trafficking by border guards, and invites the Romanian authorities to continue their efforts in this respect.

³² http://ec.europa.eu/dgs/home-affairs/e-library/docs/thb-victims-identification/thb_identification_en.pdf

³³ http://frontex.europa.eu/assets/Publications/Training/Fundamental_Rights_Training_for_Border_Guards.pdf

2. Measures to protect and promote the rights of victims, guaranteeing gender equality

a. Identification of victims of THB (Article 10)

96. In its first report, GRETA considered that the Romanian authorities should pay more attention to the identification of foreign nationals who could be subject to THB, take steps to spread knowledge of the National Mechanism for Identification and Referral of Victims of Trafficking in Persons (NIRM), and ensure that all relevant professionals are trained to apply it, including those who are likely to carry out an informal identification of victims.

97. The NIRM, which was approved by Joint Order No. 335/2007, has not been updated since GRETA's first report on Romania. As explained in GRETA's first report, the NIRM distinguishes between informal and formal victim identification. Informal identification can be carried out by a series of actors (e.g. Romanian diplomatic missions and consulates, labour inspectors, health-care professionals, educational staff, NGOs) who assess the relevant indicators and if there are reasonable grounds to believe that a person is a presumed victim of THB, they refer him/her to the authorities carrying out formal identification. Formal identification is carried out by the law enforcement and judicial authorities and results in the recognition of a person as a victim of human trafficking, with all the rights attached to this status and the provision of assistance measures with the agreement of the victim.³⁴ In their comments on the draft GRETA report, the Romanian authorities have indicated that an update of the NIRM is foreseen as part of the 2014-2016 National Action Plan in the framework of the project "Human trafficking – a victim-centred approach".

98. The NIRM provides a detailed list of indicators for the identification of victims of THB. In addition, manuals containing indicators for the identification of victims of different types of exploitation have been elaborated in the framework of the project "Elaborating common guidelines and procedures for the identification of victims of trafficking", which involved Bulgaria, France, Greece, Romania, Spain and the Netherlands in 2013.³⁵ The indicators are distributed to front-line police officers and are used during various training programmes.

99. According to the report "Legal analysis of the rights of trafficked persons in Romania",³⁶ the statistics provided by the Romanian authorities on formally identified victims of trafficking which were quoted in paragraph 13 do not include presumed victims of trafficking identified by NGOs and IOM in countries of destination and referred directly to NGOs in Romania, or those victims who do not want to co-operate with the law enforcement agencies.³⁷ In their comments on the draft GRETA report, the Romanian authorities have affirmed that victims of trafficking identified abroad who return to Romania, as well as victims who do not co-operate with law enforcement agencies, are included in the number of formally identified victims of trafficking, but victims repatriated by organisations which do not inform ANITP of this are not included in the statistics.

100. As regards identification of victims of trafficking for the purpose of labour exploitation, as noted in paragraph 36, labour inspectors have not received training to carry out this task, even though this is envisaged under the National Strategy. The primary task of labour inspectors is to examine the legality of employment. GRETA was informed that some 100 000 labour inspections were carried out in 2012-2013 and some illegally employed third-country nationals were detected, mostly of Chinese and Turkish origin; however, no suspected cases of THB were found.

³⁴ For more details, see paragraphs 115-117 of GRETA's first report on Romania.

³⁵ http://ec.europa.eu/dgs/home-affairs/e-library/docs/thb-victims-identification/thb_identification_en.pdf

³⁶ Asociația Pro Refugiu, *Legal analysis of the rights of trafficked persons: Romania*, 2015, available at: <http://prorefugiu.org/wp-content/uploads/2014/11/National-Report-EN-Version.pdf>

³⁷ *Idem*, p. 54.

101. Article 5¹ of Law No. 122/2006 on Asylum lists victims of trafficking in the category of “vulnerable persons” whose special needs are to be taken into account during the asylum procedure. In the first nine months of 2015, 905 asylum seekers were registered in Romania. Asylum seekers are accommodated in six open asylum centres. They are particularly vulnerable to exploitation because the financial assistance they receive is extremely low and they are not allowed to work during the first nine months following the asylum application. The asylum legislation was amended in January 2016, allowing asylum seekers to work three months after the submission of an asylum application and raising the monthly financial support to some 500 RON (about 110 Euros), in addition to free accommodation.

102. The UNHCR, in co-operation with NGOs, has developed tools for identifying vulnerable persons, including victims of trafficking, among asylum seekers. This pilot mechanism consists of the use of observation sheets with THB indicators during asylum interviews. The pilot mechanism was applied from January to November 2015 by the Directorate for Asylum and Integration of the Ministry of the Interior, which is the responsible authority in asylum matters. However, no victims of trafficking were identified among asylum seekers.

103. GRETA urges the Romanian authorities to take further steps to improve the timely identification of victims of THB, and in particular to:

- ensure that the NIRM is effectively implemented in practice, including by backing it up with adequate funding and periodically training all relevant professionals on the NIRM;
- make sure that whenever there are reasonable grounds to believe that a person is a victim of THB, he or she is identified as a victim of THB and provided with the assistance and protection measures provided for in the Convention, regardless of whether an investigation into trafficking is opened and whether the person co-operates with the investigation;
- increase efforts to proactively identify victims of trafficking for the purpose of labour exploitation, by reinforcing the capacity and training of labour inspectors to effectively prevent and combat THB;
- pay increased attention to detecting victims of trafficking among foreign workers and asylum seekers and expand the use of the tools referred to in paragraph 102. In this context, training on the identification of victims of THB and their rights should be provided to staff of the Directorate for Asylum and Integration of the Ministry of the Interior.

b. Assistance measures (Article 12)

104. In its first report on Romania GRETA urged the Romanian authorities to step up their efforts to provide assistance to victims of trafficking, and in particular to review the system of shelters for victims of trafficking and to ensure the quality of the services provided, including access to health care. GRETA also urged the authorities to ensure that the assistance measures provided for in the law are not made conditional, in practice, on the victims’ willingness to co-operate with the law enforcement agencies, and to facilitate the reintegration of victims into society.

105. As described in GRETA’s first report, the Anti-trafficking Law No. 678/2001 provides the legal framework for measures to prevent THB and to protect and assist its victims, including the setting up of shelters for temporary housing of victims of trafficking. Further, Article 63 of Law No. 292/2011 on Social Assistance provides the social services to which victims of human trafficking are entitled, namely residential centres (shelters) providing assistance, care and protection, day care centres which provide information, counselling, psychological support and social reintegration, and services at the community level, consisting of social care services, psychological counselling, legal advice, professional guidance and social reintegration.

106. Eleven centres for assisting victims of human trafficking (shelters) have been set up since 2004. However, according to the report "Analysis of support services for victims of human trafficking" drawn up in 2015 as part of the project "Best practice model on assistance for victims of trafficking in human beings – pilot project" funded by Norway Grants³⁸ and involving the Council of Europe as an implementing partner, five of the nine shelters examined in the report were not functioning. These shelters had been closed for different reasons, including lack of funding, lack of suitable staff, insufficient number of victims or need to carry out substantial repairs. Despite plans to set up a shelter for victims of trafficking in Bucharest, this has not yet materialised.

107. In their comments on the draft GRETA report, the Romanian authorities provided updated information on the currently operational shelters for victims of trafficking. The information reflects the situation on 1 June 2016, when there were six such shelters. Two of the shelters (in Cămpia Turzii and Iași) were intended only for women; the first one was visited by GRETA (see paragraph 108) and the second one, with a capacity of two places, was currently not accommodating any victims. Two other shelters, in Dolj and Botoșani, could accommodate both women and men; the shelter in Dolj, with a capacity of 16 places, was assisting five victims, and the shelter in Botoșani, with a capacity of six places, was currently empty. Finally, the shelters in Satu Mare and Timiș, with a capacity of respectively 11 and 30 places, could receive both children and adults, irrespective of their sex. No victims were accommodated at the shelter in Satu Mare and in the one in Timiș (see paragraph 109), seven victims were being assisted.

108. The GRETA delegation visited the shelter for female victims of trafficking (up to the age of 26) in Cămpia Turzii, run by the Cluj County branch of the General Department of Social Assistance and Child Protection. The shelter, which opened in 2014, is financed from the county budget and has 10 places. It is located at a secret address. Victims are accommodated in the shelter for renewable three month periods and the aim is to reintegrate them into society. The staff comprises a social worker, six educators and a psychologist. Victims of school age attend school while staying at the shelter. In the afternoon they are provided with help with their homework and games and other forms of programme is organised.

109. The GRETA delegation also visited the shelter operated by the NGO Generatie Tanara in Timișoara, which could accommodate adults and children of both sexes. Timiș County covers the costs of electricity and gas supply, while the rest of the services are funded by the NGO. The assistance includes accommodation, medical assistance, access to education for children, legal assistance and psychological consultation. The NGO Generatie Tanara also runs a long-term accommodation and assistance centre in Rekaş for women and child victims of trafficking. Victims of trafficking returning from abroad are often referred to this NGO for assistance. However, no funding is provided from the state or local budget to cover expenses relating to their assistance and rehabilitation.

110. Most of the difficulties in the provision of assistance to victims of trafficking described in GRETA's first report on Romania remain valid.³⁹ Ensuring the financing of the shelters is one of the most pressing challenges and in this regard the legislation remains unclear. The Anti-Trafficking Law provides that counties may establish assistance centres, but contains no provisions for situations in which such centres are not established, are closed, or their use is altered. The shelters continue to be short of qualified staff, such as social workers and specialised professionals. This is because the conditions and pay are not very attractive, especially in rural areas, which is further exacerbated by a freeze on recruitment of new social workers.

³⁸ Project reference VC 3107– RO 20 PA29, Norwegian Financial Mechanism 2009-2014, Romania 20, Programme Area 29 Domestic and Gender-based violence.

³⁹ See paragraphs 126-147 of GRETA's first report on Romania.

111. As a rule, the shelters accommodate only victims originating from the county in which the centre is located. This is because the Anti-Trafficking Law provides that shelters shall be financed by the counties rather than the central level and most counties are reluctant to pay for victims originating from other administrative entities, especially as there is a perpetual lack of funds.⁴⁰ GRETA reiterates that the choice of location of accommodation for a victim of trafficking should be in accordance with the risk assessment rather than prior residence since in some cases, the victim may need to be accommodated in a place far from where persons complicit in her/his recruitment and/or exploitation may live.

112. ANITP concludes co-operation agreements with NGOs providing assistance to victims of trafficking. However, despite plans to allocate more state funding to NGOs, they have relied to a great extent on international and private donors to fund the provision of assistance to victims of trafficking, including the employment of staff assisting victims, such as doctors, lawyers, psychologists and social workers. GRETA understands that on 25 February 2016 ANITP launched a call for proposals for NGO projects for the provision of assistance to victims of trafficking, which will be funded through the Swiss Agency for Co-operation and Development. The total amount available will be 1.2 million CHF (about 1.1 million Euros), for a minimum of three projects over a period of 12-20 months. ANITP will provide 15% of the cost of the projects. Three projects have already been approved for funding (the main applicants were the NGOs ADPARE and People to People Association). A range of assistance services for victims of THB will be financed through these projects, including accommodation, legal and psychological assistance, medical assistance, and support to access to work/education and reintegrate.

113. Victims of trafficking can stay at shelters for up to 90 days (corresponding to the recovery and reflection period, see paragraph 131), which can be extended by the county council at the request of the judicial authorities for a maximum of six months or until the completion of the criminal proceedings. According to the previously mentioned report "Analysis of support services for victims of human trafficking" (see paragraph 106), in practice victims have to co-operate with the judicial authorities to benefit from the services of the shelters. The majority of identified victims co-operate with the police and judicial authorities. For example, according to statistics provided by the Superior Council of Magistracy in Romania, 394 victims of trafficking acted as witnesses in criminal proceedings which ended with a court decision in 2014, and 150 victims took part as civil parties. Based on statistics provided by ANITP for the period 2011-2014, over 95 % of the identified victims of trafficking co-operated with the prosecution.

114. According to the Romanian authorities, all victims of trafficking can benefit from assistance, including accommodation, for a period of 90 days. For a victim of THB to be allowed to stay in a shelter beyond the 90 day period, co-operation with the judicial authorities is required, but other forms of assistance may continue regardless of whether the victim co-operates. However, according to official statistics, about a third of identified victims of trafficking have not benefited from assistance measures. ANIPT representatives explained this by the fact that assistance depends on the victim's agreement and many victims do not wish, by accepting assistance measures from the State, to be reminded of their victimhood or their families to know that they have been trafficked. Further, some victims do not need public support because they receive support from their families, while others decide to travel abroad.

⁴⁰ The Anti-trafficking Law 678/2001 in its Article 32, paragraph 10, provides as follows: "Costs concerning housing, assistance and protection for victims of trafficking as well as the transportation from the administrative-territorial units where they were identified to the centre or protected establishment where they will be housed/assisted are financed from the local budget of the county where the centre or the protected establishment is located".

115. Article 38¹ of the Anti-Trafficking Law 678/2001 determines that the measures of protection and assistance to victims of THB who are EU/EEA nationals shall be the same as those available to Romanian victims. These provisions do not apply to third-country nationals. As noted in GRETA's first report, foreign victims of trafficking are entitled to accommodation during the reflection period without being the subject of an administrative detention order due to their irregular situation, according to Government Ordinance No. 194/2002 on the Regime of Foreigners in Romania. The accommodation, which should consist of special facilities in the administrative detention centres where victims of trafficking should be placed separately from detained foreign nationals, must be approved by the General Director of the Romanian Immigration Inspectorate. These centres have a closed regime as they are mainly used to accommodate irregular foreigners. They do not have separate facilities for trafficking victims, who consequently are held under conditions no different from detention.⁴¹ Foreign victims of trafficking who ask for international protection in Romania can be accommodated in designated centres organised in accordance with Law No. 122/2006 on Asylum.

116. Another persisting problem concerns access to health care for victims of THB. Many victims do not have health insurance and therefore can only receive short-term emergency medical assistance. NGOs try to fill this gap by paying for medical assistance to the best of their abilities.

117. The Probation Office of Romania was made responsible in 2004 for providing psycho-social and legal assistance to victims of trafficking. It was given this function partly because of its extensive regional presence, including in areas in which there are no NGOs supporting victims. However, according to research carried out in the framework of the Norway Grants funded project "National approach to compensation of victims of human trafficking" (see paragraph 147), the Probation Office, whose primary role is to work with offenders, is not trusted by victims and its responsibilities as regards assistance measures to victims of trafficking remain largely unknown, even among its own staff. Though the Probation Office is supposed to provide psychological support to victims of trafficking, it does not have any specialist counsellors among its staff. The Probation Office has reportedly helped victims of trafficking fill out forms for claiming compensation, but once the claim has been filed, the office lacks capacity to ensure follow up.

118. In their comments on the draft GRETA report, the Romanian authorities have referred to on-going work on the drafting of new minimum quality standards for services provided to victims of THB. The draft standards were prepared by a team of experts from ANITP and NGOs (People to People, ADPARE, Ratiu Centre for Democracy). The draft was discussed at a workshop held in February 2016 and, following a public consultation, it will be finalised and approved through a joint ministerial order.

119. GRETA once again urges the Romanian authorities to step up their efforts to provide assistance to victims of trafficking, regardless of their nationality, in particular by:

- ensuring that any person identified as a presumed victim of THB is provided with the assistance and protection measures provided for in the Convention, regardless of whether an investigation into human trafficking is opened or the victim co-operation therein;
- ensuring that all assistance measures provided in law are guaranteed in practice; when assistance is delegated to NGOs as service providers, the state has an obligation to provide adequate financing and to ensure the quality of the services delivered;
- providing a sufficient number of shelter places around the country for all victims of trafficking who need safe accommodation for the duration necessary to achieve their recovery, based on individual needs assessment;

⁴¹ Page 53 of the report by Asociatia Pro Refugiu, "Legal analysis of the rights of trafficked persons": Romania, 2015, available at: <http://prorefugiu.org/wp-content/uploads/2014/11/National-Report-EN-Version.pdf>

- ensuring that foreign victims of trafficking are moved from administrative detention centres and are accommodated in specialised shelters for victims of trafficking;
- ensuring adequate funding and staff to work with victims of THB and facilitate the reintegration of victims of trafficking into society by providing them with vocational training and access to the labour market;
- guaranteeing access to health care to all victims of THB.

120. Further, GRETA considers that the Romanian authorities should review the role of the Probation Office in providing psychological and legal support to victims of trafficking, in view of possibly transferring this responsibility to another institution or to NGOs, accompanied by appropriate funding.

c. Identification and assistance of child victims of THB (Articles 10 and 12)

121. As noted in paragraph 13, a large share of the victims of THB identified in the period 2011-2015 were children, the great majority of whom were trafficked within Romania. Civil society representatives referred to labour exploitation of children in domestic households, which is extremely hard to detect because of limited police and social worker capacities, especially in rural areas. A relatively new trend in Romania is exploitation of children for forced criminality. Identification of such children rests upon the child protection services and social services, as well as local police, but the latter are struggling to cope with all their tasks due to lack of human resources and expertise. All of this makes identification of and assistance to child victims of trafficking very challenging.

122. The NRM includes a specific provision with regard to child victims of trafficking and specifies the competent institutions, the process of child identification and referral, and the principle of the best interests of the child. Other relevant provisions are contained in Government Decision No. 1443/2004 on the repatriation of unaccompanied children and/or victims of trafficking, Government Decision No. 49/2011 for the approval of the framework methodology for prevention and multi-disciplinary team intervention in cases of violence against children and domestic violence, and the Methodology for multi-disciplinary and inter-institutional intervention in cases of children exploited or at risk of exploitation through labour, child victims of THB and Romanian migrant children who are victims of other forms of violence in other countries. These documents provide measures to be taken in order to identify child victims of THB, report such cases and ensure that they are evaluated and monitored.

123. The National Authority for Child Protection and Adoption (ANPDCA) is the institution responsible for the co-ordination and monitoring of public policies in the field of child protection, including child victims of trafficking. The General Department of Social Assistance and Child Protection (DGASPC), which is responsible for implementing child protection policies, including as regards child victims of trafficking, has branches operating in each county of Romania, as well as in each of the six districts of Bucharest. The DGASPC has a double subordination in that it on the one hand is placed under the Ministry of Labour and Social Protection and on the other hand under the respective County Council.

124. There are no shelters specialised in the assistance of child victims of trafficking and the shelters which can accommodate child victims of THB, together with adult victims, have limited capacity (see paragraph 107). According to report "Legal analysis of the rights of trafficked persons: Romania", child victims of trafficking are usually placed in emergency reception centres for unaccompanied, abused or neglected children, operated by the county level DGASPC offices, which are not specialised for victims of trafficking and cater for various categories of children in need of protection and/or care.⁴² Similar to the situation of adult victims described in paragraph 111, children need to have their residence in the department in which the shelter or reception centre is functioning.

⁴² Page 50 of the report by Asociația Pro Refugiu, "Legal analysis of the rights of trafficked persons": Romania, 2015, available at: <http://prorefugiu.org/wp-content/uploads/2014/11/National-Report-EN-Version.pdf> .

125. If the reintegration of a child victim of THB in its natural family is not possible or is not in his/her best interests, the child may be placed in the care of a member of the extended family or a professional child carer or placed in a residential institution. The appointment of legal guardians for child victims of THB who for one reason or another cannot be returned to their families is, in line with Article 45 of Law 272/2004 on the Protection and Promotion of Children's Rights, performed by a court in the territorial jurisdiction where the child resides or was found. For a placement of a child in a residential institution or in a foster family, a court decision is also required. The suitability of members of the extended family or of a foster family is always assessed in advance by the DGASPC. As reported by the Council of Europe Commissioner for Human Rights in his 2014 country report on Romania, many children go missing from residential institutions, including as a result of mistreatment by peers or staff.⁴³

126. Government Decision No. 1443/2004 on the repatriation of unaccompanied children and/or victims of trafficking in persons establishes the procedure for returning Romanian child victims, the financing of the costs of their travel and the special protection services to be made available to them. In theory, the DGASPC is responsible for monitoring the situation of repatriated children for at least six months after their return to Romania. However, according to a report by the NGO Terre des Hommes on child victims originating from Braila and Constanta, the DGASPC is not in a position to implement specific protection measures and child victims are returned to their parents, even if the latter were involved in the trafficking, which exposes them to the risk of re-trafficking.

127. If the age of the victim is not known and when there are reasons to suspect that the victim is a child, the Romanian authorities have indicated that, according to Law No. 300/2006 on the Ratification of the Council of Europe Convention on Action against Trafficking in Human Beings, it will be assumed that the person is a child and he/she shall be granted specific protection measures. The Romanian authorities have explained that because of the very low number of identified foreign victims of THB in Romania, there has never been a situation of doubt as regards a trafficking victim's age. GRETA invites the Romanian authorities to review the age assessment procedures, ensuring that the best interests of the child are effectively protected, and taking into account the Convention on the Rights of the Child and General Comment No. 6 of the Committee on the Rights of the Child.⁴⁴

128. GRETA urges the Romanian authorities to improve the identification of and assistance to child victims of trafficking, in particular by:

- ensuring that relevant actors take a proactive approach and increase their outreach work to identify child victims of THB by paying particular attention to children in care institutions, Roma children and unaccompanied foreign minors;
- providing further training and resources to stakeholders (police, service providers, NGOs, child protection authorities, social workers), especially in rural areas, as well as guidance on the identification of child victims of THB for the purpose of all forms of exploitation, including forced begging and forced criminality;
- providing adequate support and services which are adapted to the needs of child victims of trafficking, including appropriate accommodation, access to education and vocational training;
- ensuring long-term monitoring of the reintegration of child victims of trafficking;
- ensuring that proper risk assessment is conducted before returning children to their parents, taking into account the best interests of the child;

⁴³ Report available at: <https://wcd.coe.int/ViewDoc.jsp?id=2208933&Site=COE>, see page 24.

⁴⁴ General Comment No. 6 Treatment of unaccompanied and separated children outside their country of origin, Committee on the Rights of the Child, Thirty-ninth session, 17 May - 3 June 2005.

- reviewing the application of the guardianship system for child victims of trafficking and paying increased attention to children who are trafficked by their parents or other family members.

d. Protection of private life (Article 11)

129. The Romanian authorities have affirmed that the confidentiality of information is a *sine qua non* condition from the outset of any criminal investigation. However, GRETA is concerned by reports indicating that the personal data of victims is not protected and their names and addresses may be found on the publicly available judiciary website.⁴⁵ This is not only in contravention of Article 11.1 of the Convention, which provides that each Party shall protect the private life and identity of victims, but also of the Council of Europe Convention on Data Protection, which Romania ratified in February 2002. Further, trafficking cases are as a rule dealt with in public court hearings, with the exception of cases in which children are involved, but in cases where both adults and children are involved, the case is heard in open court sessions (see also paragraph 195). GRETA urges the Romanian authorities to abandon the practice of making the names and addresses of victims of trafficking publicly available.

e. Recovery and reflection period (Article 13)

130. In its first report on Romania, GRETA urged the Romanian authorities to ensure that presumed victims of THB are systematically informed of the possibility to be granted a recovery and reflection period and that such a period is effectively granted.

131. Article 39 of the Anti-Trafficking Law provides for a “reflection period” of up to 90 days for foreign citizens about whom there are reasonable grounds to believe that they are victims of THB, for the purpose of recovering, escaping from the influence of traffickers or taking a decision regarding their co-operation with the competent authorities. The Anti-Trafficking Law was amended to make the recovery and reflection period apply to Romanian citizens as well (Article 39, index 2⁵). During this period, presumed victims are entitled to counselling, medical and social assistance, and, upon their request, accommodation in shelters or protected homes. While the law does not set a minimum duration of the reflection period, ANITP officials met by GRETA stated that all victims of trafficking are granted the maximum 90 days foreseen by law and that during this period victims are not required to co-operate with the criminal investigation.

132. ANITP does not record the number of victims who were granted a reflection period, be it foreign or Romanian citizens. According to the report “Legal analysis of the rights of trafficked persons in Romania”, the reflection period is often not applied, especially if the victim is not identified by the police.⁴⁶ Civil society representatives met by GRETA noted that the reflection period is not applied systematically, though victims may be asked to sign documents stating that the possibility of benefiting from such a period has been explained to them.

⁴⁵ See M. Wijers, *Position of victims of trafficking in human beings in criminal and other legal proceedings in Bulgaria, Slovakia and Romania*, November 2015, pp. 29-30.

⁴⁶ Asociația Pro Refugiu, *Legal analysis of the rights of trafficked persons: Romania*, 2015, available at: <http://prorefugiu.org/wp-content/uploads/2014/11/National-Report-EN-Version.pdf>

133. GRETA considers that the Romanian authorities should take steps to ensure that all possible foreign victims of trafficking are offered an effective 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. GRETA further considers that the Romanian authorities should establish a system for recording the recovery and reflection periods granted to victims of THB.

f. Residence permits (Article 14)

134. In its first report on Romania, GRETA considered that the Romanian authorities should take steps to ensure that victims of THB can take full advantage of the right to be granted a temporary residence permit. GRETA also invited the Romanian authorities to consider granting temporary residence permits to victims who, for various reasons, do not co-operate with the competent authorities.

135. The legal basis for issuing residence permits to victims of THB is provided for in Article 39 of the Anti-Trafficking Law and Government Decision No. 25/2014 of 28 November 2014, which amended and supplemented Government Decision No. 194/2002. Temporary residence rights can be granted by the General Inspectorate for Immigration if the presence of a foreign national in Romania is necessary for the criminal proceedings, as well as any legal proceedings for the recovery of outstanding wages from the employer, and as long as the foreign national does not pose a threat to public order or national security. The residence permit is granted for up to six months and is extendable for another six months.

136. Article 38 of the Anti-Trafficking Law provides that Law No. 122/2006 on Asylum applies to foreigners who are victims of trafficking. The Asylum Law does not mention among the grounds for requesting asylum the claimant's fear of persecution because he/she is a victim of trafficking. There are no statistics on the number of victims of trafficking granted asylum, but it is clear that being a victim of trafficking in human beings does not in itself give the right to asylum.

137. The Romanian authorities have not provided statistics on the number of temporary residence permits issued since 2011. As noted in paragraph 14, in the period 2011-2015, 15 foreign nationals were identified as victims of trafficking; one was from an EU Member State (Poland) and 12 were from third countries, namely the Republic of Moldova (6), Bangladesh (5) and Serbia (1). According to the authorities, all were offered repatriation or the right to remain in Romania for the duration of the criminal proceedings. GRETA notes that according to the report "Legal analysis of the rights of trafficked persons in Romania", there were no registered foreigners in the records of the General Inspectorate of Immigration who were granted a temporary residence permit as victims of human trafficking in the period 2011-2012, but there were cases of presumed victims of trafficking who obtained the right to stay or another form of protection in Romania on other grounds, such as being a member of a particular social group or due to the situation in their country of origin.⁴⁷

138. GRETA recalls that Article 14 of the Convention allows Parties to choose between granting a residence permit in exchange for co-operation with the authorities or on account of the victim's needs, or indeed to adopt both simultaneously. There are situations in which victims might be afraid to co-operate in the investigation because of threats from the traffickers or are unable to do so due to trauma they have suffered as a consequence of the trafficking experience. Victims' fear may also be reinforced by victims not being sufficiently protected against intimidation by traffickers. Granting a residence permit on account of the personal situation of the victim takes in a range of situations, such as the victim's safety, state of health and family situation, and tallies with the human-rights based approach to combating THB.

⁴⁷ Idem, p. 55.

139. GRETA considers that the Romanian authorities should take further steps to ensure that victims of trafficking can take full advantage of the right to be given a temporary residence permit and the right to seek and enjoy asylum, in line with the UNHCR's Guidelines on the application of the Refugees Convention to victims of trafficking.⁴⁸

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

g. Compensation and legal redress (Article 15)

141. In its first report on Romania, GRETA urged the Romanian authorities to increase their efforts to provide information to victims of THB about their right to compensation and the ways to access it, and to ensure that victims have effective access to legal aid in this respect. GRETA also urged the Romanian authorities to ensure that victims of trafficking can effectively exercise their right to claim compensation from the perpetrators. Further, GRETA considered that the Romanian authorities should pursue their efforts in improving the collection of statistical data on compensation granted to victims of THB.

142. As explained in GRETA's first report, victims of THB can participate in criminal proceedings as injured parties, by joining a civil claim to the criminal case, and claim compensation from the perpetrator. Both the prosecutor and the judge in a criminal case are obliged to inform the victim of their right to claim compensation from the perpetrators. Compensation can be claimed for physical and psychological damage and loss of earnings. A court can also order a perpetrator to pay compensation to a victim as part of his or her punishment. According to Article 19 of the Law on Protection of Victims of Crime, a free-of-charge bailiff service can be used for the execution of the judgement, but this provision is not well known and victims do not have the resources to enforce the compensation decision themselves. Any assets confiscated from perpetrators can in theory be used to compensate victims, but in practice revenues from confiscated criminal assets go to the state budget and therefore transforming seized assets into payable funds is complicated (see also paragraph 181).

143. A victim can also claim damages before civil courts, following the general rules applicable to civil claims.⁴⁹ Article 249 of the 2010 Civil Procedure Code provides for confiscation of assets during criminal trials by a prosecutor or judge to guarantee the execution of a financial penalty. After the end of the criminal trial injured parties can seek redress in civil courts, but civil remedies can be granted through the confiscation of offenders' assets only if the lawyer requests the procedure, otherwise the earnings obtained by selling these assets go to the state. In the absence of any statistics, it is not known how many civil claims from victims of trafficking have been submitted and have succeeded.

144. GRETA was informed that 56 victims of THB were awarded compensation by a court in 2011 and 53 in 2012. There is no information on the amounts of compensation awarded and whether it was actually paid. No information is available on compensations awarded to victims of THB by courts in 2013-2015.

⁴⁸ [UNHCR, Guidelines on International Protection: The application of Article 1A\(2\) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees to victims of trafficking, HCR/GIP/06/07, 7 April 2006](#)

⁴⁹ See paragraph 163 of GRETA's first report on Romania.

145. As noted in GRETA's first report, following an amendment made in 2007 to Law No. 211/2004 on Measures to Ensure the Protection of Victims of Crime, victims of certain serious crimes, including THB, can seek financial compensation from the state under certain conditions.⁵⁰ Such compensation may be sought to cover any costs incurred by the victim as a result of the crime or the criminal procedure, including medical expenses and the hiring of a lawyer, as well as income the victim was deprived of because of the crime. Victims must lodge their claim for compensation with the court in their place of residence. Each court has a Crime Victim Compensation Board responsible for examining such claims. The crime must have been committed on the territory of Romania and the victim must be a Romanian or a foreign national residing legally in Romania or another EU member state. While as a rule the criminal offence for which compensation is sought must be reported to the investigative authorities within 60 days of the offence being committed, this deadline may be prolonged in cases where victims have objectively been prevented from launching the claim. The victim is not required to report the offence during the 90-day recovery and reflection period and the deadline is extended accordingly. The deadline for seeking financial compensation is one year from the date of the final court judgment in a criminal or civil case. According to the report "Legal analysis of the rights of trafficked persons in Romania", State compensation is approved only on the basis of a final court sentence, which can take place years after the trafficking offence took place. Further, if the victim is given the legal quality of witness, she/he cannot claim compensation from the State.

146. GRETA was informed that in the last five years 65 victims claimed State compensation. There are no statistics on the compensation granted. ANITP reported a case in which a victim of trafficking received compensation from the State for costs incurred for health services, including psychological counselling.⁵¹ In this case, the court decided to compensate the victim's mother for nine days of accommodation in the hospital where her daughter was being cared for. The total amount of compensation for the victim and her mother was 3405 RON (around 760 Euros).

147. ANITP's internal procedures oblige any specialist coming in contact with victims of trafficking to inform them of all their rights, including the right to financial compensation. However, according to research conducted in the framework of the Norway Grants funded project "National approach to compensation of victims of human trafficking" awareness of the relevant legal provisions is still low among certain officials and specialists involved, such as judicial executors, and there are differences in the way victims are informed about their rights, including by police officers carrying out interviews with victims.⁵² As part of this project, implemented in partnership with the Council of Europe, in 2015 ANITP organised seven training sessions in different regions of the country on the right to compensation for victims of trafficking and how to access it. The sessions brought together some 105 participants from different professions who might come into contact with victims, such as police officers, prosecutors, social workers, psychologists, lawyers, judges and bailiffs.

148. The Anti-Trafficking Law entitles victims of trafficking to legal aid from a lawyer appointed *ex officio*. The provision of legal aid can begin before the court hearing, but in most cases a lawyer is not present during the victim's first contacts with the authorities. NGOs sometimes provide victims with legal counselling before their first contacts with law enforcement officials. The Bar Association's internal procedure for appointing *ex officio* lawyers is laid down in its Decision No. 419/2008. In 2015, a protocol was concluded between the Ministry of Justice and the Bar Association regarding the payment of *ex officio* lawyer services, which foresees a fee of 360-400 RON (between 80 and 90 Euros) per stage of the procedure. State-funded legal aid can be granted to victims of trafficking in both criminal and civil cases, but in the latter the civil court judge will decide whether to grant it or not. The Bar Association does not organise any trainings on human trafficking or trafficking victims' rights.

⁵⁰ See paragraph 164 of GRETA's first report on Romania.

⁵¹ Civil Decision No. 960 F from 18 June 2015 of Lalomita Court.

⁵² Klara Skrivankova, Marieke von Doorninck, *Compensation for trafficked persons in Romania - Opportunities and obstacles in accessing justice*, Report prepared in the framework of the project "National approach to compensation of victims of human trafficking" funded by Norway Grants and implemented by ANITP in co-operation with the Council of Europe, 2015.

149. According to the report "Compensation for trafficked persons in Romania - Opportunities and obstacles in accessing justice," duty lawyers sent by the Bar Association to advise the victim during police interviews are often appointed at very short notice.⁵³ Moreover, if the case leads to criminal proceedings, there will probably be a different lawyer appointed to assist the victim because Bar Association Decision No. 419/2008 provides that a lawyer who has provided extrajudicial assistance cannot provide free legal assistance in court for the same case. In any event, *ex officio* lawyers often change during the criminal proceedings due to their long duration (between three and five years). In theory, the victim can ask to be provided with another lawyer if he/she is not satisfied with the one appointed, but in practice victims are not informed about this possibility and courts require a solid justification for such requests. The report notes that while victims who have been assisted by NGOs before police interviews are more aware of their rights, in general victims of trafficking are poorly informed about their rights, including the right to receive compensation.

150. Based on Law No. 211/2004 on the Protection of Victims, victims of trafficking may get financial aid to appoint a lawyer of their own choice, but this financial support, the calculation of which is linked to the minimum income, is rather modest in size. The provision of legal assistance to victims of THB is among the services which will be provided under the three new NGO projects which will be funded by the Swiss Agency for Co-operation and Development and ANITP (see paragraph 112).

151. GRETA urges the Romanian authorities to increase their efforts to facilitate and guarantee access to compensation to victims of THB, and in particular to:

- provide information to all victims of THB on their right to compensation and the ways to assess it, and ensure that victims have effective access to legal aid in this respect;
- enable victims of trafficking to exercise their right to compensation, by building the capacity of legal practitioners to support victims to claim compensation;
- include victim compensation in training programmes for law enforcement officials, prosecutors and judges;
- ensure that all victims of human trafficking, regardless of nationality and residential status, are eligible for compensation from the State. This is particularly important when compensation from traffickers cannot be enforced because they are insolvent.

152. Further, GRETA invites the Romanian authorities to develop a system for recording compensation claimed and/or awarded to victims of trafficking.

h. Repatriation and return of victims (Article 16)

153. In its first report on Romania, GRETA urged the Romanian authorities to take additional steps to improve the institutional and procedural framework for the return of victims of THB, with due regard to their safety, dignity and protection and, in the case of children, by fully respecting the principle of the best interests of the child and making an appropriate risk assessment prior to their return. GRETA noted that particular attention should be paid to ensuring financial means for the travel of victims of THB.

⁵³ Ibidem.

154. To assist in organising repatriation of Romanian nationals from abroad, Romanian consulates have an emergency budget to be used for covering the cost of repatriation which can be used for the benefit of trafficked persons. The consulates co-operate with the national authorities and NGOs specialised in assisting victims of trafficking in the country concerned, even though there are no memoranda or other formal agreements on co-operation.

155. On 3 September 2003, the Romanian Government concluded a Memorandum of Understanding with the IOM in the field of co-operation in assisted humanitarian voluntary repatriation. Procedures for assisted humanitarian return of foreign nationals, which apply to victims of trafficking, are regulated by Government Ordinance No. 25 of 26 August 2014. According to the authorities, foreign nationals who are victims of THB are provided with information in a language they understand about the judicial and administrative procedures and may benefit from psychological counselling, health care and social assistance, as well as medicines and food. Foreign victims of trafficking may also request assistance from the General Inspectorate for Immigration and international organisations or NGOs with competence in this field.

156. The repatriation of Romanian child victims of trafficking identified on the territory of other states is conducted in line with the provisions of Government Decision No. 1443/2004 on the repatriation of unaccompanied children and/or victims of trafficking. Romanian diplomatic missions abroad inform the child protection authority in Romania about any unaccompanied children who are being repatriated. The authorities have 20 days to carry out a "social investigation" regarding the child's family and extended family and send the results to the consulate, which organises the repatriation. The child protection services in Romania receiving the child become the child's legal representative. The repatriation model developed by the Drehscheibe Centre in Vienna for the return of child victims of THB to Romania includes a network of contacts with child assistance agencies and monitoring of each case over a six-month period following the return. Since 2011, 22 Romanian children have been returned from Austria to Romania in line with Government Decision No. 1443/2004. The Romanian authorities have commended the co-operation with the Drehscheibe Centre, which is compliant with the procedure established by Romanian law and is based on openness and readiness to provide details on each Romanian child identified on Austrian territory. However, according to representatives of NGOs, children repatriated to Romania by international NGOs, such as Caritas, are not automatically considered as victims of THB in Romania by ANITP, and when they are resettled in places of their habitual residence, local budgets do not cover costs necessary for providing them with assistance and rehabilitation. The Romanian authorities have stressed that if repatriation is performed by international NGOs without informing the authorities, there is a risk that the children will not be included in the records of the social services in order to identify measures to ensure the best protection of their rights.

157. With regard to the return of unaccompanied children from Romania to their countries of origin, Article 131 of Government Emergency Ordinance 194/2002 on Foreigners in Romania determines the legal regime applicable to foreign unaccompanied children. The child is first asked for his/her consent to being reunited with his or her family in the country of origin, including members of the extended family where applicable. Should the child not consent, the appropriate specialised authorities will proceed to determine the best interests of the child, based on which the decision to return the child or not is taken. In case the child's family or State of origin do not agree to receive the child, the child may be granted the right to a long-term stay in Romania.

158. According to data provided by ANITP, the number of Romanian victims of trafficking repatriated to Romania was 61 (including 12 children) in 2011, 110 (including 16 children) in 2012, 121 (including 10 children) in 2013, and 42 (including 7 children) in 2014. A breakdown of the countries from which the victims were returned is provided in the Romanian reply to GRETA's second round questionnaire.⁵⁴

⁵⁴ See page 69 of the Romanian authorities' reply to GRETA's second round questionnaire, available at: <http://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168063bc57>

159. As regards the repatriation of foreign victims of trafficking from Romania, be they adults or children, records are not systematically kept about such returns, but according to ANITP's database two victims of THB from the Republic of Moldova were repatriated in 2013 and 2015 respectively, and another victim of THB was helped by the IOM in co-operation with the NGO ADPARE to return to Greece in 2015. There are no particular funds available for the repatriation of trafficking victims, but any such return can be paid for by general state funds or applicable EU ones.

160. GRETA considers that the Romanian authorities should take further steps to provide financial means for the repatriation of victims of THB and ensure that the return of victims of THB is conducted with due regard to their rights, safety and dignity, including the right to *non-refoulement* (Article 40(4) of the Convention), and in the case of children, by fully respecting the principle of the best interests of the child. In this context, the Romanian authorities should take into account the UNHCR guidelines on the application of refugee status to victims of trafficking.⁵⁵

3. Substantive criminal law

a. Criminalisation of THB (Article 18)

161. Trafficking in human beings is criminalised by Articles 210 and 211 of the new CC as follows:

"Article 210 (Trafficking in persons)

(1) Recruitment, transportation, transfer, harbouring or receipt of persons for exploitation purposes:

a) by means of coercion, abduction, deception, or abuse of power;

b) by taking advantage of the inability of a person to defend him/herself or to express his/her will or of his/her obvious state of vulnerability;

c) by giving and receiving payments or other benefits in exchange for the consent of an individual having authority over such person, shall be punishable by imprisonment of no less than three and no more than 10 years and a ban on the exercise of certain rights.

(2) Trafficking in persons perpetrated by a public servant while fulfilling his/her professional duties and prerogatives shall be punishable by imprisonment of no less than five and no more than 12 years.

(3) The consent of an individual who is a victim of trafficking does not represent a justifying ground."

"Article 211 (Trafficking in children)

(1) Recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of his/her exploitation shall be punishable by imprisonment of no less than three and no more than 10 years and a ban on the exercise of certain rights.

(2) If such an act was perpetrated under the terms of Article 210, paragraph (1) or by a public servant while fulfilling his/her professional duties, it shall be punishable by imprisonment of no less than five and no more than 12 years and a ban on the exercise of certain rights.

(3) The consent of an individual who is a victim of trafficking does not represent a justifying ground."

⁵⁵ [UNHCR, Guidelines on International Protection: The application of Article 1A\(2\) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees to victims of trafficking, HCR/GIP/06/07, 7 April 2006](#)

162. Article 182 of the new CC defines exploitation as follows: “forcing a person to carry out work or tasks; enslavement or other similar procedures implying deprivation of freedom; forcing persons into prostitution, pornography, in view of obtaining and distributing pornographic material or any other types of sexual exploitation; forcing into mendicancy and illegal collection of body organs, tissues or other cells”. Further, Articles 214 and 215 of the CC criminalise the exploitation of adults and children for begging.

163. GRETA notes that the exploitation of criminal activities does not appear among the forms of exploitation listed in Article 182 of the new CC. The Romanian authorities have indicated that the term “forcing a person to carry out work or tasks” would cover the exploitation of criminal activities. The report “Legal analysis of the rights of trafficked persons in Romania” refers to the High Court of Cassation and Justice Decision No. 1940/2011, in which the members of an organised criminal group which recruited prisoners by loaning them money while they were in prison and obliged them to settle the debt by committing criminal offences were convicted of the offence of human trafficking on the basis of Article 12e of the Anti-Trafficking Law (“to carry out any other activity that violates fundamental human rights and freedoms”).

164. Forced marriage is not mentioned in Article 182 of the CC as a form of exploitation. The Romanian authorities are not aware of any investigations concerning forced marriages in connection with the offence of trafficking. However, the authorities have noted that in recent years, there has been information about Romanian women identified in other countries as being exploited/recruited through forced marriages or marriages of convenience.

165. The aggravating circumstances listed in Article 24 of the Convention are covered by Article 210 of the CC as concerns involvement of a public official, by Article 211 of the CC as concerns trafficking in children, and by Article 367 of the CC as regards the involvement of a criminal group.⁵⁶ Committing the offence by deliberately or through gross negligence endangering the life of the victim is not an aggravating circumstance. In their comments on the draft GRETA report, the Romanian authorities have indicated that the CC and CPC were amended by Government Emergency Ordinance No. 18/2016, adopted on 17 May 2016, which added to the aggravating circumstances listed in Article 211(2) of the CC the offence being committed by endangering the life of a child, the offence being committed by a family member of the child, and the offence being committed by a person in whose care, protection, education or treatment the child is or by a person who abused his/her recognised position of trust or authority over the child. Further legal amendments are envisaged in order to add the previously mentioned aggravating circumstances to the offence of child pornography, given that child victims of THB can be exploited in the production of pornography materials.

166. Articles 375 and 396 of the CPC provide for a plea bargaining procedure which may lead to reduced sentences. GRETA considers that this procedure should not be applied to trafficking cases, given the severity of the crime.

⁵⁶ Extract from Article 367 on the creation of an organised crime group: “(1) The act of initiating or creating an organised criminal group or joining or supporting such a group in any way shall be punishable by no less than one and no more than five years of imprisonment and a ban on the exercise of certain rights. (2) When the offences included in the purpose of an organised criminal group are punished by life imprisonment or by a term of imprisonment exceeding 10 years, it shall be punishable by no less than three and no more than 10 years of imprisonment and a ban on the exercise of certain rights. (3) If the acts set out in paragraph (1) were followed by the perpetration of an offence, the rules on the concurrence of offenses shall apply.” The Romanian authorities have explained that the concurrence of offences may lead to aggravation of the punishment if the offence was committed in the context of an organised criminal group, in conjunction with Law No. 39/2003 on Combating Organised Crime.

167. Forgery of identity documents and the related acts listed in Article 20 of the Convention are not criminalised specifically in relation to trafficking in human beings, though forgery of documents in general is criminalised by Article 327 of the new CC. The Romanian authorities have pointed out that acts committed in relation to travel or identity documents with a view to facilitating THB offences are incriminated even though they are not treated as distinct trafficking offences.

168. According to GRETA's observations from its second evaluation visit, the provisions of the new CC and the new CPC are still not well known to legal professionals in Romania, and there is confusion as regards the applicability of the Anti-Trafficking Law No. 678/2001 in relation to the new CC. In this context, reference is made to the recommendations concerning training for law enforcement officials, prosecutors, judges and other legal professionals in paragraphs 37 and 56.

b. Criminalisation of the use of services of a victim (Article 19)

169. Article 216 of the new CC on the use of services of exploited persons reads as follows: "An act of using the services listed under Article 182 provided by a person about whom the beneficiary knows that he/she is a victim of trafficking in persons or trafficking in children, shall be punishable by imprisonment of no less than six months and no more than three years or by a fine, unless such an act constitutes a more serious offence".

170. The number of prosecutions and convictions under this provision is still small, due to difficulties in proving knowledge on the part of the customer buying services of an exploited person. The Romanian authorities have referred to a recent criminal case, involving 20 victims of THB and a total of 14 defendants. In this case, by Decision No. 38 of 12 February 2016 of the Timișoara Court of Appeal, a judge was convicted for the use of services of an exploited person (see also paragraph 188).

c. Corporate liability (Article 22)

171. Corporate liability is regulated in Articles 135-151 of the new CC and applies to THB-related offences. The main penalty foreseen in Article 136 of the CC is a fine and the complementary penalties are dissolution of the legal entity, suspension of its activities for a term between three months and three years, prohibition of participation in public procurement procedures for a term of between one and three years, placement under judicial supervision, and publication of the sentence convicting the legal person.

172. GRETA was informed of one case, dating back to 2013, in which three legal persons received final sentenced for THB-related offences. One of the companies concerned, a massage parlour, received a fine of 25 000 RON (about 5600 Euros) and was ordered by the court decision to be dissolved. No legal entities have been penalised in 2014-2015 for involvement in trafficking offences. GRETA considers that the Romanian authorities should continue investigating and prosecuting cases of corporate involvement in THB offence, paying particular attention to recruitment companies based in Romania and involved in trafficking of Romanian citizens abroad.

d. Non-punishment of victims of THB (Article 26)

173. In its first report, GRETA considered that the Romanian authorities should assess the implementation of Article 26 of the Convention by the judicial and other relevant authorities and should be prepared to review, on the basis of such an assessment, the content and/or the application of the relevant provisions, with a view to addressing any shortcoming identified.

174. Article 20 of the Anti-Trafficking Law concerning the non-punishment of victims of trafficking reads as follows: "A person subject to trafficking who committed, as a result of his/her exploitation, the crime of prostitution, begging, illegal immigration or unlawful crossing of a border of a state or donation of organs or tissues or cells of human origin (...) shall not be punished for these crimes."

175. The Romanian authorities have also referred to some of the provisions of the new CC as providing a legal basis for implementing the non-punishment principle to victims of human trafficking, in particular Article 23 (general provisions),⁵⁷ Article 24 (physical constraint),⁵⁸ and Article 25 (moral constraint).⁵⁹

176. Judges and prosecutors met by GRETA explained that as a standard practice, prosecutors do not raise charges against victims of human trafficking in cases where the offence is linked to their status of victims. An example was given of a 17-year old victim of trafficking who was forced to steal but was not punished as decided by High Court Decision No. 2248 of 26 June 2012. According to the report "Legal analysis of the rights of trafficked persons in Romania", no victims of trafficking were investigated for crimes committed while they were in exploitation in the three year period preceding the research report. However, the report raises concerns about women involved in prostitution who are trafficked and are not considered as victims of trafficking, hence being liable to sanctions. Both prostitution and begging were decriminalised with the entry into force in 2014 of the new CC, but they still remain administrative offences for which fines may be issued.

177. GRETA is concerned that Article 20 of the Anti-Trafficking Law gives a rather narrow interpretation of the non-punishment clause. GRETA considers that the scope of the non-punishment provision should be extended to cover all offences which victims of THB were compelled to commit, including administrative and immigration-related offences. The Romanian authorities should develop guidance and training for police officers and prosecutors on the non-punishment provision. Reference is made in this context to the recommendations on non-punishment for legislators and prosecutors contained in the paper issued by the OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings in consultation with the Alliance against Trafficking in Persons Expert Co-ordination Team.⁶⁰

4. Investigation, prosecution and procedural law

a. Measures related to ensuring effective investigations (Articles 1, 27 and 29)

178. In its first report, GRETA urged the Romanian authorities to investigate any reports of alleged involvement of public officials in THB-related offences or corruption in connection with THB. Further, GRETA urged the authorities, including the entities responsible for ensuring compliance with the labour legislation, to conduct proactive investigations concerning THB for the purpose of labour exploitation. In addition, GRETA encouraged the Romanian authorities to prioritise the identification of gaps in the investigation procedure and the presentation of cases in court, with a view to ensuring that THB-related offences are investigated and prosecuted effectively, leading to proportionate and dissuasive sanctions. Finally, GRETA invited the Romanian authorities to review the system of confiscation of assets, in order to reinforce its effective implementation with regard to THB-related offences.

⁵⁷ "Article 23 - General provisions: (1) An act stipulated by criminal law does not constitute an offence when committed in the conditions of one of the causes of non-liability; (2) The effect of causes of non-liability does not extend to participants in the act, except in *cas fortuit*."

⁵⁸ "Article 24 - Physical constraint: An act stipulated by criminal law does not carry liability when committed as a result of physical constraint which the perpetrator was unable to resist."

⁵⁹ "Article 25- Moral constraint: An act stipulated by criminal law does not carry liability when committed as a result of moral constraint exercised by threatening grave danger of the person of the perpetrator or another person and which cannot be removed in any other way."

⁶⁰ <http://www.osce.org/cthb/101002>

179. The special investigative techniques allowed under Article 138 of the new CPC include the interception of communications; access to IT systems; video, audio and photography surveillance; locating or tracking through technical means; obtaining data on a person's financial transactions; detention, surrender or searching of mail; use of undercover investigators and collaborators; and obtaining data generated or processed by providers of public electronic communications networks or providers of publicly available electronic communications services other than the contents of communications. Based on Law No. 235/2015 on the retention of data generated or processed by providers of public electronic communications networks and providers of publicly available electronic communications service, investigators can request court permission to access private electronic communications. In practice, the special investigation techniques mainly used in THB cases are undercover agents, surveillance of communications and monitoring of bank accounts or other financial activities. According to the Romanian authorities, the most effective special investigation technique in THB cases has proved to be the interception of phone calls and other communications.

180. The modalities of confiscation of assets are set out in Article 112 of the CC entitled "special confiscation", which applies, *inter alia*, to goods produced through the commission of the offence, used in the commission of the offence, and used immediately after the offence has been committed in order to ensure the escape of the perpetrator. Article 112, sub-paragraph f(5), of the CC specifies that if the goods subject to confiscation cannot be found, a monetary sum or other assets of similar value shall be confiscated. Further, the recently amended Article 112¹ of the CC, which entered into force in 2015, provides for "extended confiscation" of assets and goods going beyond those referred to in Article 112, if the person is convicted of certain offences, including trafficking in human beings, exploitation of vulnerable persons or trafficking in organs, tissues or cells of human origin, which are likely to procure a material benefit and carry a penalty of at least four years' imprisonment.

181. GRETA was informed that during criminal investigations the Police DCCO, in co-ordination with the DIICOT, systematically check the financial resources and assets of traffickers and seek to identify the movable and immovable property of members of criminal groups. Any identified assets are seized with a view to ensuring their subsequent confiscation by court. According to information provided by the DCCO, from December 2012 to December 2013, assets and valuables confiscated in the course of investigations for trafficking offences amounted to 177 295 Euros, USD 11 036, and the equivalent of 13 315 Euros in other currencies, as well as 8,76 kg gold, 84 real estate properties and 104 vehicles. However, representatives of law enforcement authorities referred to practical difficulties in relation to confiscation, such as the absence of an inventory of owners of movable and immovable properties at the national level, which leads to difficulties with confiscation of property not listed in the name of the offender.

182. Information about confiscated assets is managed by the Asset Recovery Office in the Ministry of Justice, which has been active since 2011. According to representatives of this office, the creation of an information tool which would enable disaggregation of assets seized and confiscated according to specific offences is underway.

183. On 24 December 2015, Law No. 318/2015 on the Establishment, Organisation and Functioning of the National Agency for the Management of Seized Assets was published. The rules of the organisation and functioning of this Agency have been adopted by Government Decision of 11 May 2016 and it is expected to become operational in the second half of 2016 or at the beginning of 2017. At the request of the prosecutor or the court, the Agency will temporarily store and manage mobile assets with individual value exceeding 15 000 Euros. Following a request by a prosecutor, a judge for rights and freedoms or a court, the Agency shall immediately capitalise movable goods seized in cases provided under Article 252 of the CPC. The Agency is, among others, tasked with keeping records of court decisions on disposing security measures of special confiscation or extended confiscation, developing and managing a monitoring system of seized, confiscated and sold property, and assisting in the enforcement of orders of seizure and confiscation received from/sent to judicial bodies in other EU Member States.

184. GRETA welcomes the setting up of the National Agency for the Management of Seized Assets and considers that the Romanian authorities should ensure that the Agency is provided with sufficient resources to enable it to effectively fulfil its mandate, including in cases of foreign requests for freezing and/or confiscation of assets within the framework of mutual legal assistance. Further, GRETA considers that the Romanian authorities should take additional steps to freeze and confiscate assets related to THB offences, also in view of compensating victims.

185. In Romania, the measures of blocking, filtering and take-down of illegal Internet content can be imposed through a decision of a competent administrative body or a court decision, as a consequence of engagement of criminal liability, civil liability or administrative liability. There is no regulation imposing on Internet service providers the obligation to install a filtering system. The illegal or harmful Internet content, recognised as such by an administrative decision or a court order, can be blocked and/or removed; the enumeration of the legal grounds for considering Internet content as illegal or harmful is non-exhaustive. As a general rule, content proven to be illegal or harmful is to be removed by the content provider. There are several hotlines which receive complaints regarding illegal and harmful content which are forwarded to the police or competent authorities. Complaints received so far relate to child pornography, adult pornography, cyber bullying and grooming.⁶¹

186. In the investigation of cases of transnational trafficking, Romanian law enforcement agencies cooperate with the competent authorities of countries of transit or destination of the victims through the exchange of information, requests for legal assistance and the conclusion of joint investigation teams (JITs). Recent JITs in cases of trafficking were signed with France and Spain in 2014, and with Germany and Denmark in 2015. Co-operation between Romania and countries of transit and destination of trafficking victims is carried out at EU level through Europol's EMPACT project.⁶² Co-ordination meetings under the aegis of Eurojust have contributed to avoiding conflicts of jurisdiction.

187. In the period 2011-2014, the police registered new THB cases per year as follows, with the number of investigated people in brackets: 2011 - 541 (1 296); 2012 - 634 (1 342); 2013 - 714 (1 363); 2014 - 729 (1 438). In the same period, the Prosecutor's Office dealt with an average of 1 900 cases per year, including cases opened in previous years. The number of people prosecuted/convicted of THB was as follows: 2011 - 480/276; 2012 - 536/427; 2013 - 552/253; 2014 - 550/331; 2015 - 464/252.⁶³ The majority of the sentences involved imprisonment of from one to five years, and 28% concerned imprisonment of between five and 10 years.

188. The Romanian authorities have provided details on a THB-related case involving public officials. By Decision No. 38 of 12 February 2016 of the **Timișoara** Court of Appeal one of the defendants, a judge was convicted for the use of sexual services of an exploited person. In the same case, by Decision No. 64 of 9 March 2016 of the **Timișoara** Court of Appeal, a policeman from the **Timișoara** Traffic Police Service was sentenced for trafficking in children. The proceedings regarding the remaining 12 defendants in this case continue.

189. GRETA welcomes the high rate of convictions for THB in Romania and considers that the Romanian authorities should continue to take measures to ensure that THB cases are investigated proactively, prosecuted successfully, and lead to effective, proportionate and dissuasive sanctions, including in cases in which the perpetrators are public officials.

⁶¹ For more details, see Swiss Institute of Comparative Law, *Comparative Study on Blocking, Filtering and Take-Down of Illegal Internet Content*, Lausanne, 20 December 2015, Romania (pp.555-568). Available at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806554a3>

⁶² European Multidisciplinary Platform against Criminal Threats. See : <https://www.europol.europa.eu/content/eu-policy-cycle-empact>.

⁶³ It should be noted that in the majority of cases the investigations and prosecutions began well before the year in which the court reached a verdict, therefore there is no link between the number prosecutions and convictions in a certain year. It should also be noted that 81 out of the 252 sentences in 2015 were suspended.

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

190. In its first report, GRETA urged the Romanian authorities to reinforce the measures for protecting victims of trafficking, with due regard to the special situation of child victims, regardless of whether or not they have agreed to participate in criminal proceedings.

191. The witness protection programme is laid down in Law No. 682/2002 on the Protection of Witnesses.⁶⁴ Further, Articles 125-130 of the CPC regulate witness protection. Wherever there is a reasonable suspicion that life, bodily integrity, freedom, property or occupation of the witness or a member of her or his family could be jeopardised as a result of the data they provide to the judiciary, the prosecutor may give them the status of threatened witnesses, which may result in the use of one or more of the protection measures foreseen in Articles 126 and 127 of the CPC. Witnesses who have suffered trauma as a result of the committed offence or the subsequent behaviour of a suspect or defendant, as well as underage witnesses, may be given the status of vulnerable witness. In such cases, the protection measures under Articles 126 and 127 of the CPC apply, including surveillance of the home of the witness; provision of temporary housing; escorting and protection of witnesses or members of his or her family while traveling; or the provision of a pseudonym with which the witness will sign his or her statements. Further, it may involve a hearing of the witness without him or her being present in the hearing room, by means of audio-visual transmission, with the witness' voice and/or image distorted.

192. Moreover, Article 26 of Anti-Trafficking Law states that victims of trafficking are to be given assistance and special physical, legal and social protection, including as regards their identity. According to Article 25 of the Anti-Trafficking Law, the court may declare the trial closed at the request of the injured party. Victims of trafficking who provide the prosecution or court with relevant information to identify the offenders may be included in the witness protection programme. Article 27(1) of the Anti-Trafficking Law states that "at the request of the judicial authorities, the Ministry of the Interior shall provide physical protection for victims of trafficking, as well as for the members of groups, foundations, associations or non-governmental organisations who support them (...)".

193. Pursuant to Article 24 of the Anti-Trafficking Law, hearings in cases of trafficking in children are not open to the public. In trafficking cases involving children, the hearing of children under the age of 14 should take place in the presence of at least one parent or a legal representative, while the presence of a psychologist or a representative of the General Directorate of Social Assistance and Child Protection is mandatory. Children can take part in hearings from the age of 10. The judge decides whether to hold hearings involving children, taking in consideration the actual level of the child's mental and physical development. The child's hearing is to be recorded by audio-visual technical means and the child must consent to the recording of his or her declaration. In some locations there are purpose-built rooms for interviewing children and the GRETA delegation visited such a room in Cluj-Napoca.

194. According to the report "Legal analysis of the rights of trafficked persons in Romania", in practice, the witness protection programme is hardly ever used in THB cases. One NGO stated that over a period of 10 years, it had witnessed only one attempt by a prosecutor to include a victim of trafficking in the witness protection programme, which was unsuccessful.⁶⁵ In their comments on the draft GRETA report, the Romanian authorities have indicated that as of 1 June 2016, two victims of THB were included in the witness protection programme.

⁶⁴ See paragraph 198 of the first GRETA report on Romania.

⁶⁵ Pages 33-35 of the report available at : <http://prorefugiu.org/wp-content/uploads/2014/11/National-Report-EN-Version.pdf>

195. GRETA notes with concern that, according to the previously mentioned report, there are a number of problems in protecting victims and witnesses of trafficking, such as the fact the victims' names and addresses are made public on the internet (see paragraph 129); the absence of a special procedure for handing over trial summons to victims/injured parties which ensure their confidentiality; the questioning of victims in the presence of the suspected traffickers, including the possibility of cross-examination; and the absence of an emergency shelter open around the clock available for victims who have been threatened or abused by traffickers. There are few protection measures available outside the court room and victims are often intimidated or threatened by traffickers or their families or associates.⁶⁶

196. In their comments on the draft GRETA report, the Romanian authorities have referred to recent amendments to the CPC (introduced by Government Emergency Ordinance No. 18 of 17 May 2016), which concern measures to support and protect victims during criminal proceedings. According to these amendments, victims of trafficking are presumed to be vulnerable victims when considering the application of protective measures. The judicial body may order a hearing of the victim in specially designated areas or in the presence of a psychologist or another specialist in counselling victims. If the injured person is a minor, technical recording of the hearing through audio or audio-visual technical means is compulsory in all cases. The re-examination of the injured person takes place only if it is strictly necessary for the criminal proceedings. During the hearing, the victim/injured party may be accompanied upon request by his/her legal representative and by another person designated by the victim/injured party, unless the court decides otherwise. Repeated hearings of the child witnesses, civil or injured parties are to be avoided if the court considers that it is in their best interests.

197. GRETA considers that the Romanian authorities should make full use of the available measures to protect victims and witnesses of THB, including children, and to prevent intimidation during the investigation and during and after the court proceedings. In this context, GRETA refers to the Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice.⁶⁷

c. Jurisdiction (Article 31)

198. According to Articles 42 and 63 of the CPC, the Romanian judicial authorities are competent to investigate and prosecute crimes committed outside Romania by its nationals. According to Article 9 of the CC, Romanian criminal law applies to crimes committed outside the national territory by a Romanian citizen or by a Romanian legal person, if the punishment provided by Romanian law is detention for life or imprisonment of more than 10 years. In the rest of the cases, the Romanian criminal law also applies to cases committed outside the national territory by a Romanian citizen or legal person if the deed is a crime under the criminal law of the country in which it was committed or if it was committed in a place which is not under the jurisdiction of any state. Further, according to Article 10 of the CC, Romanian criminal law applies to crimes committed outside the national territory by a foreign citizen or a stateless person, against the Romanian state, against a Romanian citizen or against a Romanian legal person.

⁶⁶ Idem, page 35.

⁶⁷ Adopted by the Committee of Ministers on 17 November 2010 at the 1098th meeting of the Ministers' Deputies.
Available at: <http://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016804b2cf3>

5. International co-operation and co-operation with civil society

a. International co-operation (Articles 32 and 33)

199. In its first report, GRETA considered that the Romanian authorities should step up their efforts to reinforce co-operation with destination countries in the areas of prevention, protection of victims and prosecution of perpetrators, on the basis of existing mechanisms and by introducing further procedures wherever this proves necessary.

200. Romania has concluded bilateral agreements on mutual legal assistance with a number of countries, including Belgium, Italy, the Republic of Moldova, the Netherlands and Turkey.⁶⁸ As regards states with which Romania has no bilateral agreement, co-operation in the criminal field is regulated by Law No. 302/2004 on International Judicial Co-operation in Criminal Matters, which recognises the principle of reciprocity and covers extradition, surrender under an European arrest warrant, transfer of proceedings in criminal matters, recognition and enforcement of judgements of foreign courts, transfer of sentenced persons and judicial assistance in criminal matters. According to this law, the competent authorities are the Ministry of Justice (as regards extradition, European arrest warrants, transfer of sentenced persons, recognition and enforcement of judicial decisions), the Prosecutor's Office (on matters of international assistance in relation to research and prosecution) and the Ministry of the Interior (as regards criminal records).

201. With the entry into force of the new CC and the new CPC on 1 February 2014, several provisions relating to international judicial co-operation in criminal matters were amended, namely as regards the procedure of transfer of criminal proceedings, requests to be made through international channels (such as locating and identifying persons and objects, hearing the suspect, the accused, the injured party and other participants in criminal proceedings), search and seizure of objects and documents, enforcement of special or extended confiscation, investigation of the crime scene, expertise, wiretapping, examination of the archival documents and other procedural acts, and hearings by video conference.

202. International co-operation also involves the setting up of joint investigation teams and carrying out of cross-border surveillance. Co-operation in the context of JITs took place in 2014 with Poland and the Czech Republic. For examples of other recent JITs, see paragraph 186.

203. Romania is engaged in regular exchanges of information on combating THB with EU Member States and non-EU countries through Europol, Interpol and the Southeast European Law Enforcement Centre (SELEC). By way of example, the authorities have set up a Romanian-French Working Group on Unaccompanied Children.

204. According to information provided by the Romanian authorities, in 2012-2013, 46 requests for assistance relating to THB were received and 43 such requests were addressed to other countries. In 2014, 22 requests on asset identification were received by Romanian law enforcement authorities from other countries in relation to THB cases, including from France, Spain and the Netherlands.

205. The Romanian authorities have referred to future international co-operation related to supporting victims of THB, such as a project proposal with TRABE Association in Madrid and the Municipal Council of Madrid for promoting the social integration of women victims of sexual exploitation.

206. In addition to the standard European phone number 112 for emergencies, there is also the European helpline number 116000 for missing children in Europe.⁶⁹ In Romania, this helpline is administered as part of a project implemented by the NGO "Romanian Centre for Missing and Sexually Exploited Children" (FOCUS).

⁶⁸ See the reply to question 56 of the Reply from Romania to the Questionnaire for the second evaluation round. Available at: <http://www.coe.int/en/web/anti-human-trafficking/romania>

⁶⁹ <http://missingchildreurope.eu/116000hotline>

207. GRETA welcomes the steps already taken in the area of international co-operation and invites the Romanian authorities to continue their efforts and to reinforce co-operation in the search for missing persons, in particular missing children who are believed to be possible victims of trafficking.

b. Co-operation with civil society (Article 35)

208. In its first report, GRETA considered that the Romanian authorities should systematically invite NGO representatives to participate in the meetings of the Inter-Ministerial Working Group on Combating THB and involve them in the development of anti-trafficking policies. As noted in paragraph 20, the Inter-Ministerial Working Group has not met in recent years.

209. NGOs continue playing an important role in preventing and combating human trafficking in Romania and are involved in awareness raising, research, training of relevant professionals and contributing to policy documents in this area, including the National Strategy against Human Trafficking.⁷⁰ Representatives of public bodies expressed appreciation for the work of NGOs, in particular for training of professionals involved in the identification of victims of THB, as well as for the assistance provided by NGOs to victims of trafficking.

210. According to the Romanian authorities, during 2010-2014, some 30 co-operation agreements and memoranda were signed between ANITP and private organisations, in particular NGOs. NGOs are the main providers of assistance to victims of THB. Further, since 2015, NGOs have been involved in the identification of vulnerable persons among asylum seekers, in co-operation with the UNHCR (see paragraph 102). NGOs have also recently been consulted by ANITP in the context of drafting minimum quality standards for services provided to victims of THB (see paragraph 118).

211. According to representatives of NGOs met by the GRETA delegation, the level of co-operation with ANITP and the central anti-trafficking police department is good, but there is room for improvement when it comes to co-operation with regional police departments and local authorities. There is also a lack of regular co-operation in the field of preventing and combating THB with other civil society actors, such as trade unions and the Bar Association.

212. GRETA considers that the Romanian authorities should continue building strategic partnerships with NGOs and other civil society actors, such as trade unions, the Bar Association and the private sector. Reference is made to the recommendation concerning providing adequate funding for the assistance to victims of THB in paragraph 119.

⁷⁰ The following NGOs contributed to the National Strategy: Save the Children, ADPARE, Caritas Bucharest, AIDRom, Romanian Centre for Missing and Sexually Exploited Children - FOCUS, Terre des Hommes and Ratiu Centre for Democracy.

IV. Conclusions

213. Since the adoption of GRETA's first report on Romania in March 2012, progress has been made in a number of areas.

214. The Romanian authorities have continued to develop the legal framework for combating trafficking in human beings, in accordance with GRETA's recommendations, and further amendments of relevant legislation are underway.

215. The current National Strategy and related Action Plans contain ambitious objectives the implementation of which is linked to the availability of adequate funding.

216. Further, the Romanian authorities have adopted a number of policy documents and actions plans in the areas of gender equality and the protection of children's rights, which have the potential of preventing THB by tackling the root causes of this phenomenon.

217. Additional measures have been made to provide training to relevant professionals and to expand the categories of staff targeted, by including professionals working with children and health-care staff. GRETA welcomes the training provided to the Border Police which has contributed to the detection of victims of human trafficking by border guards.

218. GRETA also commends the steps taken since the first evaluation visit to raise general awareness of THB as well as to target vulnerable groups, in particular the Roma communities, through campaigns and projects in the areas of health, education and anti-discrimination.

219. Further, steps have been taken since the first evaluation visit to prevent trafficking for the purpose of labour exploitation through raising awareness about this phenomenon and there are plans to provide training to labour inspectors and to amend the legislation related to agencies offering employment abroad.

220. Moreover, efforts have been made to prevent trafficking in children, through amendments of the legislation relevant to birth registration and measures directed to children in street situations. GRETA welcomes the "Second Chance" programme which aims at reintegrating children and adults, including victims of trafficking, in the education system,.

221. Another welcome development is the drawing up of indicators for the identification of victims of human trafficking for different forms of exploitation and tools for identifying victims of trafficking among asylum seekers.

222. GRETA also commends the high rate of convictions for trafficking in human beings in Romania and the setting up of the National Agency for the Management of Seized Assets.

223. However, despite the progress achieved, some issues give rise to concern. In this report, GRETA requests the Romanian authorities to take further action in a number of areas. The position of the recommendations in the text of the report is shown in parentheses.

Issues for immediate action

- While welcoming the steps taken in Romania since the first evaluation to prevent trafficking for the purpose of labour exploitation through raising awareness about this phenomenon, GRETA urges the Romanian authorities to intensify their efforts, in particular by:
 - training labour inspectors, law enforcement officers, prosecutors and judges about THB for the purpose of labour exploitation and the rights of victims;
 - expanding the mandate of labour inspectors so that they can be actively engaged in the prevention of THB, including in domestic households;
 - strengthening the monitoring of recruitment and temporary work agencies and supply chains and reviewing the legislative framework for any loopholes that may limit protection or preventive measures;
 - working closely with the private sector, in line with the Guiding Principles on Business and Human Rights (paragraph 56).
- Given that the number of identified child victims of THB has increased considerably during the reporting period and that the majority of victims stem from rural areas, GRETA urges the Romanian authorities to intensify their efforts to prevent trafficking in children, in particular by sensitising and training child protection professionals across the country, raising awareness of children through education, and paying special attention to Roma communities and migrant children (paragraph 69).
- GRETA urges the Romanian authorities to take further steps to improve the timely identification of victims of THB, and in particular to:
 - ensure that the NIRM is effectively implemented in practice, including by backing it up with adequate funding and periodically training all relevant professionals on the NIRM;
 - make sure that whenever there are reasonable grounds to believe that a person is a victim of THB, he or she is identified as a victim of THB and provided with the assistance and protection measures provided for in the Convention, regardless of whether an investigation into trafficking is opened and whether the person cooperates with the investigation;
 - increase efforts to proactively identify victims of trafficking for the purpose of labour exploitation, by reinforcing the capacity and training of labour inspectors to effectively prevent and combat THB;
 - pay increased attention to detecting victims of trafficking among foreign workers and asylum seekers and expand the use of the tools referred to in paragraph 102. In this context, training on the identification of victims of THB and their rights should be provided to staff of the Directorate for Asylum and Integration of the Ministry of the Interior (paragraph 103).
- GRETA once again urges the Romanian authorities to step up their efforts to provide assistance to victims of trafficking, regardless of their nationality, in particular by:
 - ensuring that any person identified as a presumed victim of THB is provided with the assistance and protection measures provided for in the Convention, regardless of whether an investigation into human trafficking is opened or the victim cooperates therein;
 - ensuring that all assistance measures provided in law are guaranteed in practice; when assistance is delegated to NGOs as service providers, the state has an obligation to provide adequate financing and to ensure the quality of the services delivered;

- providing a sufficient number of shelter places around the country for all victims of trafficking who need safe accommodation for the duration necessary to achieve their recovery, based on individual needs assessment;
- ensuring that foreign victims of trafficking are moved from administrative detention centres and are accommodated in specialised shelters for victims of trafficking;
- ensuring adequate funding and staff to work with victims of THB and facilitate the reintegration of victims of trafficking into society by providing them with vocational training and access to the labour market;
- guaranteeing access to health care to all victims of THB (paragraph 119).
- GRETA urges the Romanian authorities to improve the identification of and assistance to child victims of trafficking, in particular by:
 - ensuring that relevant actors take a proactive approach and increase their outreach work to identify child victims of THB by paying particular attention to children in care institutions, Roma children and unaccompanied foreign minors;
 - providing further training and resources to stakeholders (police, service providers, NGOs, child protection authorities, social workers), especially in rural areas, as well as guidance on the identification of child victims of THB for the purpose of all forms of exploitation, including forced begging and forced criminality;
 - providing adequate support and services which are adapted to the needs of child victims of trafficking, including appropriate accommodation, access to education and vocational training;
 - ensuring long-term monitoring of the reintegration of child victims of trafficking;
 - ensuring that proper risk assessment is conducted before returning children to their parents, taking into account the best interests of the child;
 - reviewing the application of the guardianship system for child victims of trafficking and paying increased attention to children who are trafficked by their parents or other family members (paragraph 128).
- GRETA urges the Romanian authorities to abandon the practice of making the names and addresses of victims of trafficking publicly available (paragraph 129).
- GRETA urges the Romanian authorities to increase their efforts to facilitate and guarantee access to compensation to victims of THB, and in particular to:
 - provide information to all victims of THB on their right to compensation and the ways to assess it, and ensure that victims have effective access to legal aid in this respect;
 - enable victims of trafficking to exercise their right to compensation, by building the capacity of legal practitioners to support victims to claim compensation;
 - include victim compensation in training programmes for law enforcement officials, prosecutors and judges;
 - ensure that all victims of human trafficking, regardless of nationality and residential status, are eligible for compensation from the State. This is particularly important when compensation from traffickers cannot be enforced because they are insolvent (paragraph 151).

Further conclusions

- GRETA considers that the Romanian authorities should keep under review the effectiveness of ANITP in fulfilling the role of a National Rapporteur or equivalent mechanism, and examine the possibility of designating as a National Rapporteur a separate organisational entity or another independent mechanism for monitoring the anti-trafficking activities of State institutions (paragraph 22).
- GRETA considers that the Romanian authorities should ensure that the budget allocated to action against THB is adequate to cover the measures foreseen in the National Strategy and Action Plans (paragraph 28).
- While welcoming the training provided, GRETA considers that the Romanian authorities should continue and increase their efforts to train relevant professionals on human trafficking and victims' rights, in particular police officers, social workers, child care professionals, prosecutors, judges and medical staff. The training should aim, *inter alia*, at combatting negative attitudes and prejudice towards victims of THB, including those of Roma origin and women (paragraph 37).
- GRETA invites the Romanian authorities to pursue their efforts to maintain a comprehensive and coherent statistical system on trafficking in human beings by compiling reliable statistical data from all main actors on measures to protect and promote the rights of victims as well as on the investigation, prosecution, convictions and compensation in human trafficking cases. This should be accompanied by all the necessary measures to respect the right of data subjects to personal data protection (paragraph 41).
- While welcoming the above-mentioned research efforts, GRETA considers that the Romanian authorities should continue to conduct and fund research on THB-related issues as an evidence base for future policy measures. Areas where such research is needed in order to shed more light on the extent and nature of the problem of THB include trafficking of foreign nationals to Romania and trafficking in Roma communities (paragraph 46).
- While welcoming the efforts made in the area of raising awareness of THB, GRETA considers that the Romanian authorities should reinforce their efforts, paying particular attention to rural areas, internal trafficking and current trends in THB in Romania. The authorities should design future awareness-raising activities in the light of impact assessment of previous measures, focusing on the needs identified (paragraph 51).
- GRETA considers that the Romanian authorities should continue taking steps to ensure that all children are registered at birth (paragraph 70).
- GRETA considers that the Romanian authorities should take further steps to prevent online recruitment of children, including by co-operating with Internet service providers and raising the awareness of children, parents and education professionals of the risk of recruitment for THB through the Internet (paragraph 71).
- GRETA considers that the Romanian authorities should increase their efforts to prevent THB through social, economic and other measures for groups vulnerable to THB, including through outreach work in Roma communities. Further efforts should be made to promote gender equality, combat gender-based violence and stereotypes, and support specific policies for the empowerment of women as a means of combating the root causes of THB (paragraph 78).

- GRETA welcomes the efforts made to sensitise health-care professionals to THB for the purpose of organ removal and invites the Romanian authorities to continue these efforts through providing regular training of medical professionals involved in organ transplantations and other relevant professionals (paragraph 86).
- GRETA considers that the Romanian authorities should strengthen their efforts to discourage demand for the services of trafficked persons, for all forms of exploitation, in partnership with civil society and the private sector (paragraph 90).
- GRETA welcomes the training on THB provided to the Border Police and the detection of victims of trafficking by border guards, and invites the Romanian authorities to continue their efforts in this respect (paragraph 95).
- GRETA invites the Romanian authorities to review the age assessment procedures, ensuring that the best interests of the child are effectively protected, and taking into account the Convention on the Rights of the Child and General Comment No. 6 of the Committee on the Rights of the Child (paragraph 127).
- GRETA considers that the Romanian authorities should take steps to ensure that all possible foreign victims of trafficking are offered an effective 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. GRETA further considers that the Romanian authorities should establish a system for recording the recovery and reflection periods granted to victims of THB (paragraph 133).
- GRETA considers that the Romanian authorities should take further steps to ensure that victims of trafficking can take full advantage of the right to be given a temporary residence permit and the right to seek and enjoy asylum, in line with the UNHCR's Guidelines on the application of the Refugees Convention to victims of trafficking (paragraph 139).
- GRETA invites the Romanian authorities to consider granting temporary residence permits to victims of THB on the basis of their personal situation, in addition to the residence permit on the basis of the victim's co-operation in the investigation or criminal proceedings (paragraph 140).
- GRETA invites the Romanian authorities to develop a system for recording compensation claimed and awarded to victims of trafficking (paragraph 152).
- GRETA considers that the Romanian authorities should take further steps to provide financial means for the repatriation of victims of THB and ensure that the return of victims of THB is conducted with due regard to their rights, safety and dignity, including the right to *non-refoulement* (Article 40(4) of the Convention), and in the case of children, by fully respecting the principle of the best interests of the child. In this context, the Romanian authorities should take into account the UNHCR guidelines on the application of refugee status to victims of trafficking (paragraph 160).
- GRETA considers that the plea bargaining procedure should not be applied to trafficking cases, given the severity of the crime (paragraph 166).

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- GRETA considers that the Romanian authorities should continue investigating and prosecuting cases of corporate involvement in THB offence, paying particular attention to recruitment companies based in Romania and involved in trafficking of Romanian citizens abroad (paragraph 172).
 - GRETA considers that the scope of the non-punishment provision should be extended to cover all offences which victims of THB were compelled to commit, including administrative and immigration-related offences. The Romanian authorities should develop guidance and training for police officers and prosecutors on the non-punishment provision (paragraph 177).
 - GRETA welcomes the setting up of the National Agency for the Management of Seized Assets and considers that the Romanian authorities should ensure that the Agency is provided with sufficient resources to enable it to effectively fulfil its mandate, including in cases of foreign requests for freezing and/or confiscation of assets within the framework of mutual legal assistance. Further, GRETA considers that the Romanian authorities should take additional steps to freeze and confiscate assets related to THB offences, also in view of compensating victims (paragraph 184).
 - GRETA welcomes the high rate of convictions for THB in Romania and considers that the Romanian authorities should continue to take measures to ensure that THB cases are investigated proactively, prosecuted successfully, and lead to effective, proportionate and dissuasive sanctions, including in cases in which the perpetrators are public officials (paragraph 189).
 - GRETA considers that the Romanian authorities should make full use of the available measures to protect victims and witnesses of THB, including children, and to prevent intimidation during the investigation and during and after the court proceedings. In this context, GRETA refers to the Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice (paragraph 197).
 - GRETA welcomes the steps already taken in the area of international co-operation and invites the Romanian authorities to continue their efforts and to reinforce co-operation in the search for missing persons, in particular missing children who are believed to be possible victims of trafficking (paragraph 207).
 - GRETA considers that the Romanian authorities should continue building strategic partnerships with NGOs and other civil society actors, such as trade unions, the Bar Association and the private sector. Reference is also made to the recommendation concerning providing adequate funding for the assistance to victims of THB in paragraph 119 (paragraph 212).

Appendix

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

Public bodies

- Ministry of the Interior, including:
 - the National Agency against Trafficking in Persons (ANITP)
 - **General inspectorate of Border Police**
- Ministry of Labour, Family and Social Protection, including the National Authority for Protection of Children's Rights and Adoption
- Ministry of Health
- Ministry of Education and Scientific Research
- Ministry of Justice
- Ministry of Foreign Affairs
- Directorate for Investigating Organised Crime and Terrorism within the Prosecutor's Office (DIICOT)
- Superior Council of Magistracy
- Border Guards
- National Agency for Equal Opportunities between Women and Men
- Romanian Government Agency for Roma

Intergovernmental organisations

- International Organization for Migration (IOM)
- United Nations High Commissioner for Refugees (UNHCR)
- United Nations International Children's Emergency Fund (UNICEF)

Non-governmental and other civil society organisations

- Association for Development of Alternative Practices for Reintegration and Education (ADPARE)
- Ecumenical Association of Churches in Romania (AIDRom)
- Terres des hommes
- Romanian Centre for Missing and Sexually Exploited Children (FOCUS)
- Save the Children
- Caritas
- Ratiu Centre for Democracy
- Reaching out
- Centre for Advocacy and Human Rights (CADO)
- Romanian Bar Association

Government's comments

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

GRETA engaged in a dialogue with the Romanian 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 Romanian authorities on 21 July 2016 and invited them to submit any final comments. The comments of the Romanian authorities, submitted on 9 September 2016, are reproduced hereafter.

Final comments

of the Romanian authorities on the Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Romania - Second evaluation round

The Romanian authorities would like to thank the Group of Experts on Action against Trafficking in Human Beings (GRETA) for their efforts in producing the Second evaluation round Report on the actions taken by Romania to comply with the provisions of the Council of Europe Convention on Action against Trafficking in Human Beings, especially to the delegation directly involved in the field visit, the two GRETA experts Mr. Nicolas Le Coz, President, and Ms. Vessela Banova, member, and the two administrators in the Secretariat of the Convention Mr. Mats Lindberg and Mr. David Doolidze. The evaluation period has been valuable to further highlight the struggle against trafficking in persons and the actions taken so far to prevent and combat it.

In general, the Report highlights and welcomes the activities of the Romanian authorities in line with the needs and trends of the phenomenon of trafficking in human beings (THB) and with the provisions of the CoE Convention:

- raising awareness activities, targeting especially labour exploitation;
- setting up the National Strategy and the subsequent National Action Plan against Trafficking in Persons;
- policy documents and action plans in the areas of gender equality and the protection of children's rights;
- analysis of THB dimension;
- periodical trainings of different specialists;
- the high rate of convictions of trafficking in human beings crimes.

The Report highlights the difficulties encountered by the Romanian authorities in the following areas and makes recommendations in addressing them:

- exhaustive trainings for all specialists who may be in contact with the victims;
- extensive assistance for the victims, irrespective of the nationality, gender or their cooperation with the judicial authorities;
- easier access to compensation for the victims;
- sufficient number of shelters for victims' assistance.

Against this background, we would like to submit a few comments for some of the paragraphs in the Evaluation Report, as follows:

Paragraph 14

In our opinion the low number of foreign victims of trafficking in human beings is the consequence of low migration for work in Romania and not necessarily of the lack of inspections or controls of work conditions performed by the competent Romanian authorities.

Paragraph 51

Each awareness-raising campaign is based on the lately identified trends and trafficking in human beings patterns. Such awareness-raising activities are implemented based on the evaluation of the THB dimension, vulnerabilities, vulnerable categories or communities. Also, if in a particular community, area or region from Romania an increase in the number of victims exploited through a particular form of exploitation is observed, recommendations for conducting awareness-raising activities and other prevention activities are made to be implemented by the local authorities with the help or in coordination with ANITP.

Paragraph 71

Online recruitment and the risks associated with the inappropriate use of resources available over the Internet are topics always touched at least by the awareness-raising campaigns developed by ANITP together with its partners. In recent years, several NGOs in Romania have developed web platforms meant for increasing the knowledge on some potential harmful applications if not aware of the risks and their use. This information was extensively presented in the Romanian authorities' Reply to the GRETA Draft Evaluation Report.

Paragraph 103

The responsibility to combat THB, namely to investigate cases of trafficking in human beings, belongs to Prosecutor's Office and the Romanian Police (Combating Organized Crime Unit). If the Romanian Government enforced labour inspectors to combat THB, it would, therefore, lead to overlapping competences. Labour inspectors have been and will be involved in awareness-raising campaigns and also in the process of victims' identification. Starting with the new project "Human Trafficking - Victim Centered Approach" labour inspectors will be also involved in extensive trainings on the identification of THB victims during labour inspections. Labour inspectors will also be trained on the rights of THB victims.

Paragraph 155

Remarks related to the assistance of the foreign victims and the interpretation and applicability of the Memorandum of Understanding with IOM and for voluntary return will be included in the Report for the implementation of GRETA recommendations which the Romanian authorities will submit.

Paragraph 160

This Recommendation is referring to additional measures for enhancing the repatriation of victims of THB with due respect to their rights, safety and human dignity, leaving to understand that Romania has not done so. In our opinion, this recommendation has no background given the fact that the Romanian authorities have not experienced such situations.

Paragraph 161

We would like to make a reference to the comments provided by the Romanian authorities to the GRETA draft Report in which it was mentioned the amendment brought to the Criminal Code applied through the Government Emergency Ordinance no.18/2016, including in relation to the addition of the circumstances of committing the crime of trafficking in minors. The following aggravating circumstances were introduced: 1) the offence endangered the life of a minor; 2) the offence was committed by a family member of the minor; 3) the act was committed by a person in whose care, protection, education, protection or treatment the minor is, or a person having abused their recognised position of trust or authority over the minor.

Paragraph 166

The Romanian criminal law is providing the conditions and the crimes for which the prosecuted person may receive a reduction of the sentence (article 375 followed by the article 396 of the Criminal Procedure Code). These articles are not applied for the crimes with the maximum penalty/life sentence. There is no possibility to restrict the prosecuted person's access to these special law provisions, if they confess their involvement.

Paragraph 168

The observation related to the low level of knowledge among law enforcement professionals on the provisions of the new Criminal Code and the confusion as regards applicability of the Anti-Trafficking Law (Law no.678/2001) is not pertinent. At the level of the Prosecutor's Office (DIICOT) there are not confusions as regards the provisions to be applied in the THB and trafficking in minors crimes.

Moreover, as we have also mentioned in the comment to the draft Report we appreciate that there is a direct link between the rate of conviction and the training and specialisation of the prosecutors and judges in combating THB. The number of investigations, prosecuted persons and convictions is comparable to the previous period, before the entry into force of the new Criminal Code, thus illustrating the level of knowledge and applicability of the new provisions applicable among the judiciary.

Paragraph 169

A new amendment for the article 216 was made through the Government Emergency Ordinance no.18/2016 with regard to the crime of "using child pornography" as follows: "committing any sexual act with a minor who practices prostitution shall be punished by imprisonment from 3 months to 2 years, unless such an act constitutes a more serious offence".

Paragraph 177

The Anti-Trafficking Law (Law no. 678/2001) provides also the conditions in which the victims forced to prostitution or begging will not receive a fine, given the administrative offence performed as a consequence of their exploitation. Article 20 (2) is applied in these conditions in which it is made reference to the offences provided by article 2 paragraphs (3) and (6) of the Law 61/1991 on the punishment of violations of social standards, public order (republished in 2011). The offences referred to are practicing prostitution and begging.

Paragraph 179

There is confusion between the name and the number of two laws. The Law no. 82/2012 is the law regarding on the retention of data generated or processed by providers of public electronic communications networks and providers of publicly available electronic communications service and the Law no.235/2015 is the law for amending and supplementing the Law no. 506/2004 regarding the personal data processing and protection of private life in the field of electronic communications.

Paragraph 195

In the case when THB victims are heard together with the prosecuted persons in the court room, the principle of contradictoriness is applied. The hearings of the protected witnesses are carried out in special conditions (in a separate room, distorting the voice and blurring the image).

Paragraph 197

The protection measures for THB victims are applied whenever it is necessary. They are applicable after a final court decision in case there is a need for inclusion in a witness protection programme.

Initiatives to be implemented during the next period

ANITP is going to implement two projects during three years which will address some of the struggles encountered by the Romanian anti-trafficking system including the update of the National Identification and Referral System given the lately changes of the national institutional infrastructure. Extensive trainings for labour inspectors and specialists in the field of immigration will also be organised in the framework of the first project.

Enhancing data collection system through covering a broad range of indicators related to the victims' socio-demographic characteristics, trafficking history, assistance and protection measures is the aim of the second project that will be implemented.

The two projects will bring an added value for data collection in the field of trafficking in human beings in Romania. Romania has a data collection system at the moment, but the new database will bring together the newest technology available together with indicators for measuring THB in line with the trends and patterns of trafficking. This new system for data collection will be more reliable in terms of technology, fast, accurate and will assure a comprehensive evaluation of victims' dimension, including the possibility to follow the victims from the trafficking history to their social inclusion.