



**GRETA**  
GROUP OF EXPERTS  
ON ACTION AGAINST  
TRAFFICKING IN HUMAN BEINGS

GRETA(2017)15

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

**SECOND EVALUATION ROUND**

Adopted on 31 March 2017  
Published on 17 July 2017

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Secretariat of the Council of Europe Convention  
on Action against Trafficking in Human Beings  
(GRETA and Committee of the Parties)  
Council of Europe  
F- 67075 Strasbourg Cedex  
France

[trafficking@coe.int](mailto:trafficking@coe.int)

[www.coe.int/en/web/anti-human-trafficking](http://www.coe.int/en/web/anti-human-trafficking)

## Table of contents

<b>Preamble .....</b>	<b>4</b>
<b>I. Introduction.....</b>	<b>5</b>
<b>II. Main developments in the implementation of the Convention by Bosnia and Herzegovina</b>	<b>7</b>
<b>1. Emerging trends in trafficking in human beings .....</b>	<b>7</b>
<b>2. Developments in the legal framework.....</b>	<b>7</b>
<b>3. Developments in the institutional framework.....</b>	<b>8</b>
<b>4. Strategy and Action Plan .....</b>	<b>9</b>
<b>5. Training of relevant professionals .....</b>	<b>9</b>
<b>6. Data collection and research .....</b>	<b>11</b>
<b>III. Article-by-article findings .....</b>	<b>12</b>
<b>1. Prevention of trafficking in human beings .....</b>	<b>12</b>
a. Measures to raise awareness of THB (Article 5) .....	12
b. Measures to prevent THB for the purpose of labour exploitation (Article 5).....	13
c. Measures to prevent trafficking in children (Article 5).....	14
d. Social, economic and other initiatives for groups vulnerable to THB (Article 5) .....	17
e. Measures to prevent trafficking for the purpose of organ removal (Article 5).....	18
f. Measures to discourage demand (Article 6) .....	19
g. Border measures (Article 7).....	19
<b>2. Measures to protect and promote the rights of victims, guaranteeing gender equality</b>	<b>20</b>
a. Identification of victims of THB (Article 10) .....	20
b. Assistance measures (Article 12) .....	22
c. Identification and assistance of child victims of THB (Articles 10 and 12).....	23
d. Protection of private life (Article 11).....	25
e. Recovery and reflection period (Article 13) .....	26
f. Residence permits (Article 14).....	26
g. Compensation and legal remedies (Article 15) .....	27
h. Repatriation and return of victims (Article 16).....	29
<b>3. Substantive criminal law .....</b>	<b>30</b>
a. Criminalisation of THB (Article 18) .....	30
b. Criminalisation of the use of services of a victim (Article 19).....	32
c. Corporate liability (Article 22) .....	33
d. Non-punishment of victims of THB (Article 26) .....	33
<b>4. Investigation, prosecution and procedural law.....</b>	<b>34</b>
a. Measures related to ensuring effective investigations (Articles 1, 27 and 29).....	34
b. Protection of witnesses and victims (Articles 28 and 30).....	37
c. Jurisdiction (Article 31) .....	38
<b>5. International co-operation and co-operation with civil society .....</b>	<b>38</b>
a. International co-operation (Article 32 and 33) .....	38
b. Co-operation with civil society (Article 35) .....	39
<b>IV. Conclusions.....</b>	<b>40</b>
<b>Appendix List of public bodies, intergovernmental organisations and non-governmental organisations with which GRETA held consultations.....</b>	<b>47</b>
<b>Government's Comments .....</b>	<b>49</b>

## 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 Bosnia and Herzegovina took place in 2011-2013.<sup>1</sup> Following the receipt of the reply of Bosnia and Herzegovina to GRETA's first questionnaire on 12 August 2011, an evaluation visit was organised on 14-17 May 2012. The draft report on Bosnia and Herzegovina was examined at GRETA's 15th meeting (26-30 November 2012) and the final report was adopted at GRETA's 16th meeting (11-15 March 2013). Following the receipt of the comments of the national authorities, GRETA's final report was published on 14 May 2013.

2. In its first evaluation report, GRETA noted that the offence of trafficking in human beings (THB) had been introduced in the criminal legislation at State level, but urged the competent authorities to ensure that it is incorporated in a consistent manner in all criminal codes applicable on the territory of Bosnia and Herzegovina. GRETA welcomed the establishment of the post of National Co-ordinator for combating trafficking in human beings and the independent evaluation of the implementation of the State Action Plan for 2008-2012. However, GRETA urged the authorities to ensure, in close co-operation with the authorities of the two entities and the Brčko District, that anti-trafficking legislation and policies are coherent and are effectively implemented and assessed, paying particular attention to combating trafficking within Bosnia and Herzegovina. GRETA also urged the authorities to ensure that drop-in centres for children are provided with sufficient resources and that measures are taken to ensure that Roma children have effective access to education as a measure for preventing human trafficking. Moreover, GRETA called on the authorities to disconnect the formal identification of victims of trafficking from the initiation of criminal proceedings and to improve the identification of child victims of trafficking. Other recommendations concerned the protection of the rights of victims of trafficking, in particular guaranteeing access to a recovery and reflection period, compensation and reintegration. Finally, GRETA urged the authorities to ensure that crimes related to THB are investigated and prosecuted promptly and effectively, and to protect all victims of THB, especially children, during the investigation and during and after the court proceedings.

3. On the basis of GRETA's report, on 7 June 2013 the Committee of the Parties to the Convention adopted a recommendation addressed to the authorities of Bosnia and Herzegovina, requesting them to report back on the measures taken to comply with this recommendation by 7 June 2015.<sup>2</sup> The report submitted by the Bosnia and Herzegovina authorities was considered at the 16th meeting of the Committee of the Parties (15 June 2015). The Committee of the Parties decided to transmit the authorities' report to GRETA for consideration and to make it public.<sup>3</sup>

4. On 1 September 2015, GRETA launched the second round of evaluation of the Convention in respect of Bosnia and Herzegovina by sending the questionnaire for this round to the national authorities. The deadline for submitting the reply to the questionnaire was 1 February 2016. The authorities of Bosnia and Herzegovina submitted their reply on 20 January 2016.<sup>4</sup>

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<sup>1</sup> Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Bosnia and Herzegovina, first evaluation round:

<http://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680630d16>

<sup>2</sup> Recommendation CP(2013)5 on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Bosnia and Herzegovina, adopted at the 11th meeting of the Committee of the Parties on 7 June 2013:

<http://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680630d33>

<sup>3</sup> Report submitted by the Bosnian authorities on measures taken to comply with Committee of the Parties Recommendation CP(2013)5 on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings: <http://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680630d12>

<sup>4</sup> Reply from Bosnia and Herzegovina to the Questionnaire for the evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Parties, second evaluation round: <http://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680630d31>

5. In preparation of the present report, GRETA used the reply to the questionnaire by Bosnia and Herzegovina, other information collected by GRETA and information received from civil society. An evaluation visit to Bosnia and Herzegovina took place from 6 to 10 June 2016 in order to hold meetings with relevant actors, collect additional information and examine the practical implementation of adopted measures. It was carried out by a delegation composed of:

- Ms Leonor Ladrón de Guevara y Guerrero, member of GRETA;
- Mr Helmut Sax, member of GRETA;
- Mr David Dolidze, Administrator in the Secretariat of the Convention;
- Mr Markus Lehner, Administrator in the Secretariat of the Convention.

6. During the visit, the GRETA delegation held consultations with Mr Samir Rizvo, State Co-ordinator for Combating Trafficking in Human Beings, and officials from the State Ministries of Security, Human Rights and Refugees, and Justice, as well as with representatives of the Prosecutor's Office and the judiciary. The GRETA delegation also met with Ms Jasminka Džumhur, one of the three Ombudspersons of Bosnia and Herzegovina.

7. Meetings with relevant stakeholders were also held in the two entities and the Brčko District. In the Federation of Bosnia and Herzegovina, the GRETA delegation met representatives of the Ministries of the Interior, Justice, Labour and Social Policy, Displaced Persons and Refugees, Education and Science, as well as the Prosecutor's Office and the judiciary. In the Republika Srpska, it met officials from the Ministries of the Interior, Justice, Health and Social Welfare, Education and Culture, Family, Youth and Sports, Labour and Veterans Affairs, as well as the Prosecutor's Office and the judiciary. In the Brčko District, the GRETA delegation met representatives of the Police, the Department of Education, the Sub-Division for Social Protection, the Judicial Commission and the Prosecutor's Office.

8. The GRETA delegation met representatives of non-governmental organisations (NGOs) active in combating trafficking in human beings. Discussions were also held with representatives of the offices of the International Centre for Migration Policy Development (ICMPD), the International Organization for Migration (IOM), the Organization for Security and Co-operation in Europe (OSCE), the United Nations Children's Fund (UNICEF) and the United Nations High Commissioner for Refugees (UNHCR).

9. In the course of the visit, the GRETA delegation visited a day centre (also referred to as drop-in centre) for children in street situations run by the NGO "Zemlja Djece" in Tuzla, a day centre for children run by the NGO "Nova Generacija" in Banja Luka, and a day centre for children in Sarajevo. These facilities are used for short-term accommodation of children referred by the police or the social services, including of child victims of trafficking.

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 wished to place on record the assistance provided by the Bosnian authorities in the organisation of the second evaluation visit, and to thank in particular Mr Samir Rizvo, State Co-ordinator for Combating Trafficking in Human Beings and contact person to liaise with GRETA.

12. The draft version of the present report was approved by GRETA at its 27th meeting (28 November - 2 December 2016) and was submitted to the authorities for comments on 16 December 2016. The authorities' comments were received on 14 February 2017 and were taken into account by GRETA when adopting the final report at its 28th meeting (27-31 March 2017). The report covers the situation up to 31 March 2017; 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 40-46).

## **II. Main developments in the implementation of the Convention by Bosnia and Herzegovina**

### **1. Emerging trends in trafficking in human beings**

13. Bosnia and Herzegovina remains primarily a country of origin of victims of trafficking in human beings who are exploited abroad as well as within the country. According to data provided by the authorities, 16 presumed victims of THB were identified in 2013, 49 in 2014, 35 in 2015 and 45 in 2016.<sup>5</sup> In 2013 and 2014, the majority of the victims were children (30 girls and 16 boys), followed by women (16) and men (3). In 2015 and 2016, more adults than children were identified as presumed victims (53 adults and 27 children), 54 of whom were female and 26 male. The prevailing form of exploitation over the period 2013-2016 was forced begging, sometimes combined with other forms of forced labour and/or sexual exploitation (92 victims), followed by sexual exploitation (34 victims, including one case of child pornography) and forced labour (15 victims). There were also five identified cases of trafficking of children for the purpose of forced or customary marriage. The great majority of the victims were citizens of Bosnia and Herzegovina, most of them being trafficked within the country. There were only five foreign nationals identified as victims of trafficking, originating from Serbia (two), Croatia (one), Kosovo\* (one) and Sri Lanka (one), in 2013 and 2014.

14. Due to the difficult economic situation in Bosnia and Herzegovina, an increasing number of people are seeking jobs abroad, exposing themselves to the risk of falling victim to human trafficking. The number of child victims has been on the rise, in particular those trafficked for the purpose of forced begging, forced criminality and sexual exploitation.

### **2. Developments in the legal framework**

15. The legislative framework for combating THB in Bosnia and Herzegovina reflects the State's organisational structure. Relevant legislation exists at the level of the State, the two entities and the Brčko District, including four criminal codes (CC). Since the first evaluation round, the criminal offence of human trafficking has been introduced at the entity level in the CC of the Republika Srpska, the Federation of Bosnia and Herzegovina, and the Brčko District. Thus in 2013, Article 198a ("trafficking in human beings"), Article 198b ("trafficking in children") and Article 198c ("organising a group or a criminal association for committing the criminal offences of human trafficking and trafficking in children") were introduced to the CC of the Republika Srpska. In the same year, Article 207a ("trafficking in human beings") and Article 207b ("organised trafficking in human beings") were introduced in the CC of the Brčko District. In the Federation of Bosnia and Herzegovina, amendments to the CC were adopted and promulgated in the Official Gazette on 15 June 2016, introducing Article 210a ("trafficking in human beings") and Article 210b ("organised trafficking in human beings").

16. In May 2015, the Parliamentary Assembly of Bosnia and Herzegovina adopted the Law on Amendments and Supplements to the State CC, pursuant to which the criminal offences of transnational trafficking in human beings (Article 186), organised transnational trafficking in human beings (Article 186a) and international procuring in prostitution (Article 187) were introduced. As a result, THB committed transnationally is prosecuted under the CC of Bosnia and Herzegovina while internal THB, i.e. within Bosnia and Herzegovina, is prosecuted under the criminal codes of the entities and the Brčko District. Further, a new paragraph 10 was added to Article 186 of the State CC, pursuant to which victims of THB are not to be punished for their involvement in illegal activities to the extent that they were forced into such activities.

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<sup>5</sup> The formal identification of a person as a victim of human trafficking continues to depend on the initiation of criminal proceedings, which is why the statistics refer to "presumed" or "possible" victims.

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

17. In addition, a new Law on Foreigners was enacted at the State level and entered into force on 25 November 2015. It contains provisions establishing the right of victims of THB to be granted a recovery and reflection period and a residence permit, and the right of victims of THB who have been granted temporary residence on humanitarian grounds to access the labour market and education. Moreover, a revised version of the "Rulebook on the protection of foreign victims of trafficking in persons" was published in the Official Gazette on 21 October 2016 (see paragraph 87).

18. GRETA welcomes the above-mentioned legislative amendments relevant to action against THB, which are discussed in greater detail in later parts of this report (see paragraphs 119, 126 and 147-155).

### **3. Developments in the institutional framework**

19. The Strike Force for Combating Trafficking in Human Beings ("Strike Force") continues to co-ordinate the criminal justice response to trafficking in human beings in Bosnia and Herzegovina. The composition of the Strike Force has remained unchanged and includes representatives of the State Information and Protection Agency (SIPA), the Border Police, the tax agency, public prosecutors (two from the State Prosecutor's Office, two from the Prosecutor's Office of the Federation of Bosnia and Herzegovina, one from the Prosecutor's Office of the Republika Srpska, and one from the Prosecutor's Office of the Brčko District), as well as representatives of the police agencies of the Federation of Bosnia and Herzegovina (two), the Republika Srpska (two), and Brčko District (one). The Strike Force meets once a month. It is chaired by the Chief Prosecutor of Bosnia and Herzegovina.

20. The State Co-ordinator for Combating Trafficking in Human Beings is responsible for co-ordinating the activities of relevant stakeholders at the levels of the State, the two entities, the Brčko District and the local authorities.

21. Following the adoption of the Strategy to Counter Trafficking in Human Beings and its Action Plan for 2013-2015, the Council of Ministers of Bosnia and Herzegovina established a Monitoring Team responsible for following their implementation. Pursuant to section A.2. of the Action Plan, the Monitoring Team consists of nine members, including representatives of the State Ministries of Security, Human Rights and Refugees, Civil Affairs, and Justice, the High Judicial and Prosecutorial Council, the Governments of the Republika Srpska, the Federation of Bosnia and Herzegovina and the Brčko District, and a representative of civil society. The Monitoring Team is led by the State Co-ordinator.

22. As was the case at the time of the first evaluation, at regional level, the co-ordination of anti-trafficking activities is entrusted to four Regional Monitoring Teams (RMTs)<sup>6</sup> operating in Sarajevo, Banja Luka, Mostar and Tuzla. Their composition varies to some extent, but they all include representatives of the central and local authorities, the State and local Prosecutors' Offices, law enforcement agencies and NGOs. The composition of the RMTs has been extended to include representatives of labour inspectorates, mental health centres and day centres for children. GRETA notes that according to the report "Assessment of Referral Mechanisms for Victims of Trafficking in Bosnia and Herzegovina"<sup>7</sup> prepared by an independent expert on behalf of the International Centre for Migration Policy Development (ICMPD), the RMTs are large structures, involving in some cases up to 60 participants (e.g. in Sarajevo), many of whom are not trained on issues related to THB, they do not meet regularly and do not effectively co-ordinate action on individual cases of trafficking.

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<sup>6</sup> See paragraphs 25-27 of GRETA's first report.

<sup>7</sup> Liliana Sorrentino, *Assessment of Referral Mechanisms for Victims of Trafficking in Bosnia and Herzegovina*, available at: <http://www.fightagainsttrafficking.org/resource-centre/downloads/category/2-key-documents?download=18:assessment-of-the-national-referral-mechanism-in-bosnia-and-herzegovina-2016>. The report was prepared in the framework of the project "Fight against trafficking in human beings and organised crime – Phase 2" funded by the European Commission and implemented by ICMPD in co-operation with Expertise France and the International Foundation of Administration and Public Policies of Spain (FIIAPP).



23. According to NGOs which the GRETA delegation met during the evaluation visit, there is no State funding provided for the functioning of the RMTs. The RMTs therefore have to rely to a large extent on donors.

**24. GRETA considers that, in order to make full use of the potential of the Regional Monitoring Teams, the authorities of Bosnia and Herzegovina should ensure that they receive adequate funding and training, meet regularly and contribute to anti-trafficking efforts by developing their working methods.**

#### **4. Strategy and Action Plan**

25. The implementation of the Strategy on Combating Trafficking in Human Beings in Bosnia and Herzegovina and its Action Plan for 2013-2015 was evaluated before drawing up the new Action Plan to Combat Trafficking in Human Beings (2016-2019). The method of evaluation was a combination of self-evaluation and external evaluation, based on criteria such as relevance, sustainability, efficiency, effectiveness and impact. Only 26 of a total of 123 activities envisaged in the Action Plan (21.5%) did not achieve the expected results. The main factors influencing the failure to achieve the objectives were lack of political will, primarily in the parliaments when adopting certain legal measures, lack of financial resources for carrying out certain activities, lack of capacity, inertness of certain institutions to initiate activities, unstable political situation, complex internal structure, unclear and conflicting jurisdiction, and difficult economic situation. The evaluation's recommendation was to include in the new Action Plan all activities from the Strategy and Action Plan for 2013-2015 which are still relevant and can achieve the anticipated results.

26. The new Action Plan for 2016-2019 was adopted on 31 December 2015. Its strategic objectives are: i) to improve the system for combating THB, by means of amending the legal framework, strengthening co-ordination mechanisms, providing necessary resources for the implementation of the Action Plan, monitoring its implementation, and improving the collection of data related to THB; ii) to efficiently prosecute THB cases and related offences; iii) to prevent THB through risk reduction; iv) to protect and assist victims, through enhanced victim identification, improving the legal framework concerning assistance and ensuring its effective application, providing assistance of adequate quality, building the capacity of service providers, providing effective access to justice and adequate legal assistance to victims of trafficking, and improving child protection mechanisms; and v) to strengthen partnerships and co-operation among stakeholders involved in combating THB.<sup>8</sup> The evaluation of the implementation of the new Action Plan is entrusted to the Monitoring Team set up for this purpose (see paragraph 21).

#### **5. Training of relevant professionals**

27. In its first evaluation report, GRETA considered that the authorities at the State, entity and district levels in Bosnia and Herzegovina should increase their efforts to provide regular training on THB-related issues to all relevant professionals. In particular, GRETA urged the authorities to provide specialised training on the identification of victims of THB to all frontline staff who may come into contact with possible victims of trafficking (law enforcement officials, staff of social welfare centres, staff of child drop-in centres, labour inspectors, medical staff and NGOs) and to provide specialised training to all persons responsible for the provision of assistance to victims. GRETA also considered that the knowledge and awareness of judges, prosecutors, investigators and lawyers of THB needed to be improved, in particular as regards the specific elements of the offence, the rights of victims and their access to compensation.

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<sup>8</sup> The 2016-2019 Action Plan to Counter Trafficking in Human Beings in Bosnia and Herzegovina is available in English at: [http://www.bihat.ba/images/pdf2/Drzavni\\_akcioni\\_plan/AKCIONI%20PLAN%202016-2019-usvojen\\_ENG.pdf](http://www.bihat.ba/images/pdf2/Drzavni_akcioni_plan/AKCIONI%20PLAN%202016-2019-usvojen_ENG.pdf).

28. As of 2014, the training curricula of the three police academies in Bosnia and Herzegovina (in the two entities and the Brčko District) include the subject of THB, which has become mandatory in the basic training of newly recruited staff. Training on THB is also mandatory for staff already working in counter-trafficking departments. In 2013, four training sessions on THB were organised, with the participation of 160 police officers. In 2014, 11 training sessions were attended by 674 police officers. In 2015 and 2016, 38 police officers in the Republika Srpska attended training. Moreover, in 2015-2016, the Border Police organised nine training sessions on THB for 473 border police officers. Between 2013 and 2015, a total of 34 border police officers took part in 21 external training sessions related to THB, including two sessions of training for trainers organised by Frontex (in 2013 in Italy and in 2015 in Lithuania). More external training sessions provided by international partners took place in 2016.

29. In the course of 2015, the State Ministry of Security and the NGO "IFS-Emmaus" implemented the project "Improvement of investigative capacities for the fight against human trafficking and the reintegration of victims of human trafficking", which is a component of the project "Support to the Ministry of Security in the implementation of the Strategy to Combat Human Trafficking 2013-2015" under a co-operation agreement with the United States Agency for International Development (USAID). Under this project, nine training sessions were held for professionals involved in the fight against trafficking in human beings, of which four sessions were given to members of the RMTs, four to police investigators involved in combating THB and one to specialised lawyers. The training covered recruitment methods and related risks, criminal investigation of trafficking cases, victim identification and referral procedures, assistance, compensation, procedures and documentation for transnational referral, reintegration, economic empowerment and employment-related assistance, and issues influencing the daily life of victims (such as prejudices, stigmatisation and traditional values). There was a special focus on labour exploitation, forced begging and trafficking in children. The training took place in Sarajevo, Banja Luka, Brčko, Laktaši, Neum, Mostar and Tuzla.

30. GRETA was informed that in the Federation of Bosnia and Herzegovina, the training curriculum of the Judicial and Prosecutorial Training Centre and the education activities of the Association of Prosecutors include the subject of human trafficking. In the Republika Srpska, the Judicial and Prosecutorial Training Centre also organises training for improving the awareness and knowledge of judges, prosecutors and other staff of the judicial system. In Brčko District, GRETA was informed that a number of police officers and a prosecutor who are specialised on THB participate regularly in relevant training. In 2012-2016, a total of 63 judges and 42 prosecutors received training on THB.

31. The NGO "IFS-Emmaus" is implementing two regional projects with a training component. The first one is entitled "Increasing the expertise of judicial institutions to tackle human trafficking in Albania and Bosnia and Herzegovina: Treatment of victims and witnesses of human trafficking", with the support of the Dutch Foreign Ministry, the Netherlands Helsinki Committee and the Judicial Academy of the Netherlands. Training of trainers was provided at the Judicial and Prosecutorial Training Centres of the Federation of Bosnia and Herzegovina and the Republika Srpska, and as a result a group of trainers in the field of THB was established, comprising judges and prosecutors. In addition, three expert meetings were held and a study visit to the Netherlands was organised in 2014. The topics of the expert meetings were "Secondary victimisation", "Victims of human trafficking: interview techniques (including interviewing of children)", and "Financial investigation techniques in human trafficking cases". The second project is entitled "Balkans ACT (Against Crime of Trafficking) Now!" and has been implemented since 2013 in partnership with the NGOs "ASTRA" (Serbia), "Open Gate - La Strada" ("The former Yugoslav Republic of Macedonia") and the Centre for Women's Rights (Montenegro). Within this project, the NGO "IFS-Emmaus" has provided training to 19 criminology students who subsequently monitored court proceedings in THB cases.

32. In 2014, the NGO "Zemlja Djece" launched a three-year programme supported by the German Corporation for International Co-operation (GIZ) aimed at preventing child trafficking through training of primary school teachers. A total of 50 primary school teachers from 17 schools in Tuzla municipality were trained as future trainers for teachers. The six remaining schools in Tuzla municipality which did not have teachers involved in the training received the training materials.

33. While welcoming the above-mentioned training activities, GRETA notes that frequent changes of staff among police officers, social workers, prosecutors and judges requires more systematic and comprehensive training efforts. Human trafficking is a dynamic phenomenon and there have been legislative changes which need to be reflected in the training of all relevant professionals.

34. **GRETA considers that in light of the recent amendments of the legislation relating to THB, the authorities should increase their efforts to provide training to all relevant professionals (in particular police officers, prosecutors, judges, labour inspectors, social workers, medical doctors, child specialists and representatives of self-government).**

## 6. Data collection and research

35. The State Co-ordinator continues to be responsible for collecting statistical information relating to THB from stakeholders at State, entity and district levels and reporting to the Council of Ministers. There is an official database only for foreign victims of THB, where according to the authorities information is collected and stored in line with the rights of data subjects on the protection of personal information. No such database exists for domestic victims of THB.

36. GRETA was informed of a decision to implement in Bosnia and Herzegovina the procedures for data collection on THB developed through the EU-funded project "Towards a pan-European monitoring system of trafficking in human beings (MoSy)", which was led by Portugal and involved several EU member States.<sup>9</sup> However, in their comments on GRETA's draft report, the authorities of Bosnia and Herzegovina have indicated that no progress has been made on introducing a new data collection system due to the lack of financial resources.

37. **GRETA urges the authorities of Bosnia and Herzegovina to set up a comprehensive statistical system on data related to measures to protect and promote the rights of victims as well as on the investigation, prosecution and adjudication of THB cases. Statistics regarding victims should be collected from all main actors at the State, entity and district levels, and should allow disaggregation by sex, age, type of exploitation, country of origin and country where the exploitation took place. This should be accompanied by all the necessary measures to respect the right of data subjects to personal data protection, including when NGOs working with victims of trafficking are asked to provide information for the national database.**

38. As regards research, the authorities contracted in January 2015 the independent research institute Criminal Policy Research Centre to conduct a study on THB in Bosnia and Herzegovina in the framework of the project entitled "Support to the Ministry of Security in the implementation of the Strategy to Combat Human Trafficking 2013-2015", funded by USAID. The study focused on examining the perception and attitudes of the general public and relevant professionals to THB and analysing the profiles of victims of trafficking for different forms of exploitation. The results of the research were published in a report in July 2016.<sup>10</sup>

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<sup>9</sup> [https://ec.europa.eu/anti-trafficking/eu-projects/towards-pan-european-monitoring-system-trafficking-human-beings\\_en](https://ec.europa.eu/anti-trafficking/eu-projects/towards-pan-european-monitoring-system-trafficking-human-beings_en)

<sup>10</sup> The report is available at: <http://www.cprc.ba/en/biblioteka/human-trafficking-report.pdf>.

39. Reference has already been made in paragraph 22 to the report "Assessment of Referral Mechanisms for Victims of Trafficking in Bosnia and Herzegovina" prepared by an independent expert on behalf of the International Centre for Migration Policy Development (ICMPD).<sup>11</sup>

40. **GRETA welcomes the above-mentioned research activities and considers that the authorities should conduct and support research on THB-related issues as an evidence base for future policy measures. Areas where research is needed in order to shed more light on the extent and nature of the problem of THB include trafficking for the purpose of labour exploitation, trafficking in children, online recruitment of victims, and internal trafficking.**

### III. Article-by-article findings

#### 1. Prevention of trafficking in human beings

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

41. In its first evaluation report, GRETA considered that the authorities of Bosnia and Herzegovina and the entities should launch a comprehensive campaign for the general public as well as targeted initiatives for groups vulnerable to THB, in order to raise awareness of the risks of human trafficking. GRETA also considered that future action in the area of awareness-raising should be designed in the light of the assessment of previous measures and be focused on the needs identified. Prevention within the Roma community should be strengthened through specific campaigns, using materials readily understood in these communities.

42. In their reply to the Recommendation of the Committee of the Parties, the authorities of Bosnia and Herzegovina have referred to several campaigns aimed at the general public and groups vulnerable to THB.<sup>12</sup> By way of example, in 2013, the NGO "IFS-Emmaus" implemented an awareness-raising campaign supported by the USA Embassy. Public opinion was researched both before and after the campaign and the results of the research were published. The campaign included the production and distribution of information materials (a TV clip, posters and leaflets), organising talk-shows on radio and TV, and the creation of a web site. The TV clip was designed to inform the general public and decision makers on new forms of THB in Bosnia and Herzegovina, including labour exploitation, and especially on the exploitation of children for purposes of forced begging. In 2015, another public information campaign was carried out, which was followed up by research on the level of public awareness of human trafficking.<sup>13</sup>

43. The NGO "IFS-Emmaus" has set up the European Resource Centre for the prevention of human trafficking and other forms of exploitation (EURC) for the purpose of raising awareness of THB. It provides updated information through bulletins and electronic libraries.<sup>14</sup> A part of the EURC is devoted to producing comprehensive multi-media training materials about THB, which have been distributed to more than 100 addresses. IFS-Emmaus is administering a web portal set up in co-operation with the State Ministry of Security which contains relevant information regarding THB and promotes networking and co-ordination of actors involved in action against THB.<sup>15</sup>

<sup>11</sup> Liliana Sorrentino, *Assessment of Referral Mechanisms for Victims of Trafficking in Bosnia and Herzegovina*, available at: <http://www.fightagainsttrafficking.org/resource-centre/downloads/category/2-key-documents?download=18:assessment-of-the-national-referral-mechanism-in-bosnia-and-herzegovina-2016>.

<sup>12</sup> Report submitted by the authorities of Bosnia and Herzegovina on measures taken to comply with Committee of the Parties Recommendation CP(2013)5 on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings:

<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680630d12>

<sup>13</sup> Eneid Hasanović, *Istraživanje o svijesti profesionalaca i svijesti javnosti o problemu trgovine ljudima u Bosni i Hercegovini*, 2015; available at:

<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680630d13>

<sup>14</sup> [www.eurcenter.net](http://www.eurcenter.net)

44. Within the campaign "Prevent, Protect, Compensate – Justice for Victims of Human Trafficking", implemented as part of the regional project "Balkans ACT (Against Crime of Trafficking) Now!", a multilingual web portal was set up and used for placing interactive materials and information about THB and the possibility for victims to obtain compensation.<sup>16</sup>

45. GRETA was informed of the increasing recruitment of victims of THB via the Internet, by means of social media or websites proposing employment offers, for example in the entertainment business.

46. **GRETA welcomes the efforts to raise awareness of THB among the general public as well as targeted groups and considers that the authorities of Bosnia and Herzegovina should continue to take measures to prevent THB through information and awareness-raising measures, paying particular attention to the risks of recruitment through the Internet and trafficking for the purpose of labour exploitation, and evaluating the impact of campaigns.**

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

47. The Strategy on Combating Trafficking in Human Beings highlighted prevention of THB for the purpose of labour exploitation as one of the weaknesses of the anti-trafficking response of Bosnia and Herzegovina. The Action Plan for 2013-2015 included measures to detect and prosecute THB for the purpose of labour exploitation, but no measures to prevent it. The new Action Plan for 2016-2019 envisages measures to encourage the private sector, trade unions and NGOs to strengthen the protection of workers in order to prevent exploitative situations which facilitate THB. In addition, it is planned to provide information to people travelling abroad to seek employment on how to access assistance in case of abuse.

48. Labour inspectors have the mandate to carry out inspections in all sectors of the economy, but their human resources are insufficient. Inspections are based on risk assessment and previous violations of the labour legislation by employers. Private households may be inspected only upon court order. As a rule, labour inspectors should announce their visits, but they have certain discretion in deciding if such advance warning would impede effective inspection. Labour inspectors notify the relevant authorities, in particular the Prosecutor's Office, about suspected cases of THB. GRETA was informed that during 2014-2015 several violations of the labour legislation were discovered in the Republika Srpska, such as employment without contracts, but no illegally employed foreigners and no victims of THB for the purpose of labour exploitation were identified.

49. According to the Ombudsperson of the Federation of Bosnia and Herzegovina met by the GRETA delegation, the current response to THB for the purpose of labour exploitation is weak, with supervisory bodies not having sufficient expertise and resources to prevent and detect it. No training on THB has been provided so far to labour inspectors. In their comments on GRETA's draft report, the authorities of Bosnia and Herzegovina have indicated that in 2016, a comprehensive manual for labour inspectors with guidelines and indicators for the detection and identification of victims of trafficking for the purpose of labour exploitation was finalised and disseminated to all labour inspectorates.<sup>17</sup> According to the authorities, 50 labour inspectors have already received training on the new guidelines, which include the aspect of prevention of THB in supply chains and the provision of information to workers leaving Bosnia and Herzegovina to take up employment abroad. GRETA welcomes this development.

50. In the Federation of Bosnia and Herzegovina, the legal framework for the activities of private employment/recruitment agencies is the Governmental Decree on private agencies for mediation in

<sup>15</sup> [www.bihat.ba](http://www.bihat.ba)

<sup>16</sup> [www.nadoknadimo.org](http://www.nadoknadimo.org)

<sup>17</sup> Available at: <http://cprc.ba/biblioteka/Vodic-za-inspektore-rada-web-bs.pdf>.

employment (Official Gazette of the Federation of Bosnia and Herzegovina No. 28/09).<sup>18</sup> In the Republika Srpska, the legal framework for the activities of private employment/recruitment agencies is the Rulebook on requirements which must be met by legal and private persons engaged in mediation in employment (Official Gazette of the Republika Srpska, No. 93/10).<sup>19</sup> The activities of private employment/recruitment agencies are monitored by the respective entity's ministry in charge of labour.

**51. GRETA urges the authorities of Bosnia and Herzegovina to enhance their efforts to prevent trafficking for the purpose of labour exploitation, in particular by:**

- **strengthening the monitoring of recruitment and temporary work agencies and reviewing the legislative framework, including by considering the introduction of licensing procedures;**
- **sensitising relevant officials, in particular the police, prosecutors and judges, about THB for the purpose of labour exploitation and the rights of victims;**
- **strengthening efforts to curb fraudulent job offers disseminated by means of the Internet;**
- **working closely with the private sector, in line with the Guiding Principles on Business and Human Rights.<sup>20</sup>**

**52. Further, GRETA considers that the authorities of Bosnia and Herzegovina should continue to increase the capacity and training of the labour inspectors in order to ensure that they play an important role in preventing THB for the purpose of labour exploitation, including by paying particular attention to at-risk sectors.**

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

53. In its first report, GRETA stressed that the absence of registration of children made them vulnerable to human trafficking and urged the authorities to strengthen their efforts to secure the registration at birth of all children. Further, GRETA urged the authorities to ensure that drop-in centres for children were provided with sufficient resources. Noting that Roma children are a particularly vulnerable group, GRETA urged the competent authorities to take measures to ensure that they had effective access to education as a measures for preventing human trafficking.

54. As noted in paragraph 13, the majority of identified victims of THB in Bosnia and Herzegovina have been children. In 2015 UNICEF published a comprehensive study on child begging and other child street work in Bosnia and Herzegovina.<sup>21</sup> The study showed that children in street situations are mostly younger than 14, that boys and girls are equally represented among them and that even if they are primarily Roma, all communities of the country are affected. Most of the children work in support of their families. The study concluded that these children are very vulnerable and exposed to abuse and while some cases of street-working children can be described as trafficking, many cases would be better described as parental abuse or neglect.

55. Several targeted campaigns have been carried out in recent years to ensure the registration of children at birth and the authorities have supported NGO initiatives promoting and assisting the process. According to representatives of IOM, the problem of birth registration has been largely resolved in Bosnia and Herzegovina. Families which have not registered their children are assisted to do so by the NGO "Vasa Prava". In the Republika Srpska, co-operation with the Roma Association has been established with regard to the registration of children at birth.

<sup>18</sup> Official Gazette of the Federation of Bosnia and Herzegovina, No. 28/09.

<sup>19</sup> Official Gazette of the Republika Srpska, No. 93/10.

<sup>20</sup> [http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR\\_EN.pdf](http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf).

<sup>21</sup> UNICEF, *Street-working Children: An Assessment of Child Begging and Other Street Work in Bosnia and Herzegovina*, available at: [https://www.unicef.org/bih/media\\_26899.html](https://www.unicef.org/bih/media_26899.html).

56. Six day centres (also referred to as drop-in centres) for children operate in Sarajevo, Tuzla, Zenica, Banja Luka, Mostar and Bijeljina. These centres are funded by the State and/or local budgets, as well as foreign donors, and offer assistance to children living and working on the streets. Staff working at these centres are sensitised to THB. The centres have mobile teams for outreach work and are involved in the National Referral Mechanism. In 2015, 129 persons (62 boys, 60 girls and seven women) were assisted by these centres. All of them were involved in begging, except for one case of forced marriage.

57. The campaign "Prevent, Protect, Compensate – Justice for Victims of Human Trafficking", implemented as part of the regional project entitled "Balkans ACT (Against Crime of Trafficking) Now!" (see also paragraphs 31 and 44) had among its aims raising awareness of young people about human trafficking, situations containing risks of THB and how to avoid them. Further, in October 2015 the RING network of specialised NGOs launched a campaign consisting of round table meetings in 12 towns, with participation of representatives of the police, social work centres, Prosecutor's Offices, courts and educational institutions to discuss forced begging as a form of THB and measures to improve the protection of children.

58. GRETA was informed of measures taken to reduce the vulnerability to trafficking of Roma children. The Revised Action Plan on Roma Educational Needs, adopted on 14 July 2010 by the Council of Ministers, contains measures aimed at equal access to education and social services for Roma children. According to representatives of the State Ministry of Human Rights and Refugees, resources are allocated to promote the inclusion of Roma children into the education system. The NGO "Zemlja Djece" provides assistance for the inclusion of Roma children in the health-care, education and social welfare systems. This NGO also carried out activities to raise awareness in Roma communities of the harmful effects of child labour, forced begging, early marriage and trafficking.

59. In the Federation of Bosnia and Herzegovina, the Ministry of Education and Science has provided continuous funding for measures fostering the inclusion of Roma children into pre-school and school education. In 2016, a project on Roma education mediators was introduced in the Federation. In the Republika Srpska, a Rulebook on the education of children from minority groups was introduced and the authorities are promoting the inclusion of Roma children in the education system by convening meetings with parents and providing financial support for school materials, transport and school meals. For example, in 2015 the authorities of the Republika Srpska, in co-operation with the NGO "Veseli Breg", held 45 meetings with Roma parents, discussing the benefits of enrolling children in school.

60. GRETA refers to the Committee on the Elimination of Racial Discrimination (CERD) Concluding Observations on the ninth to eleventh periodic reports of Bosnia and Herzegovina which raise concerns about the "low school attendance of Roma children and their overrepresentation in special schools because of alleged "social disabilities" or because such schools will often be the only ones that provide support such as free meals, books or transportation, which many Roma families depend on to send their children to school".<sup>22</sup>

61. Further, GRETA refers to the Committee on the Elimination of Discrimination against Women (CEDAW) Concluding Observations on the combined fourth and fifth periodic reports of Bosnia and Herzegovina which note "the prevalence of the practice of early marriage within Roma communities and the lack of sustained, systematic and concrete action ... to address this harmful practice, despite the legal prohibition of such acts."<sup>23</sup> GRETA was informed by representatives of law enforcement bodies that the number of investigations into child, early and forced marriages was growing.

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<sup>22</sup> Concluding observations on the ninth to eleventh periodic reports of Bosnia and Herzegovina, adopted by the Committee on the Elimination of Racial Discrimination at its eighty-sixth session (27 April–15 May 2015).

<sup>23</sup> Adopted by the Committee at its fifty-fifth session (8-26 July 2013).

62. Social work centres can play an important role in preventing child trafficking. However, in most cases they are under-staffed and lack financial and material resources. Further, social workers lack training on prevention of child trafficking. By way of example, some social work centres fail to react to reports of child, early and forced marriages, regarding them as part of Roma traditions. Further, no proper monitoring or risk assessment is carried out by the social work centres when returning trafficked children to their parents (see also paragraphs 113 and 144).

63. As noted in paragraph 45, the use of Internet to recruit victims of trafficking, including children has been on the increase. The authorities of the Republika Srpska informed GRETA that some preventive action was already taking place in schools.

64. The NGO "IFS-Emmaus", in co-operation with the Ministry of Security of Bosnia and Herzegovina, the Ministry of Education and Science, the OAK Foundation and Save the Children Norway, has implemented projects focusing on the prevention of child pornography and other forms of sexual abuse and exploitation of children through the use of information and communication technologies. The NGO "IFS-Emmaus" co-operates with the European network of centres promoting safe and responsible use of the Internet and mobile phones by children and young people. Since 2012, "IFS-Emmaus" is member of INHOPE-International Association of Internet Hotlines for reporting inappropriate web content.

65. Further, the Ministry of Security of Bosnia and Herzegovina, in partnership with Save the Children International, is implementing a project which aims at building institutional capacities to effectively address on-line sexual violence and other forms of on-line child abuse. The project envisages the enhancement of the capacities of law enforcement officers, prosecutors, judges and employees of hotline providers by developing training and train-the-trainers programmes, as well as adapting the curricula of police academies on how to efficiently combat on-line child sexual and other forms of abuse. The project will include a campaign based on the findings of surveys, aimed at ensuring that children and their parents are aware of potential threats and have access to protection and response mechanisms which keep them safe from on-line harm. The aim is to directly address 1 000 children and their parents and to reach out indirectly to at least 100 000 children and their parents. **GRETA welcomes the efforts made with respect to online safety of children and invites the authorities of Bosnia and Herzegovina to pursue these efforts and to continue raising awareness of THB through the general education system.**

66. **GRETA urges the authorities of Bosnia and Herzegovina to strengthen their efforts to prevent child trafficking, including by:**

- **sensitising and training child protection professionals across the country;**
- **strengthening the role and capacity of social work centres to prevent trafficking in children and play a proactive role in alerting other relevant authorities to possible cases of trafficking and exploitation, including by providing sufficient means for trainings of social workers;**
- **increasing efforts to tackle low school attendance of Roma children and their over-representation in special schools;**
- **performing risk assessment before children are returned to their families and expanding foster care placements;**
- **commissioning research about the phenomenon of child trafficking in Bosnia and Herzegovina as a basis for designing future prevention measures.**

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

67. Poverty and lack of employment opportunities remain important push factors for human trafficking in Bosnia and Herzegovina and those with lower education are more vulnerable to becoming victims of trafficking for different purposes of exploitation. Another consequence of the economic



situation in Bosnia and Herzegovina is begging, especially involving children. Officials from the State Ministry of Human Rights and Refugees informed GRETA of the existence of the so-called "social begging", when entire families with children go to on the streets due to their dire economic situation.

68. GRETA notes that in its Concluding observations on the combined ninth to eleventh periodic report on Bosnia and Herzegovina, the Committee on the Elimination of Racial Discrimination (CERD) "regrets that many Roma still suffer high levels of poverty, significant levels of unemployment, forced evictions - in some cases without appropriate alternative accommodation being provided - a lack of identity documents and lack of access to basic services".<sup>24</sup>

69. The authorities of Bosnia and Herzegovina have referred to the Framework Strategy for the implementation of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, which Bosnia and Herzegovina ratified on 7 November 2013. The strategy covers the period 2015-2018 and envisages the establishment of a comprehensive and co-ordinated approach to preventing and combating violence against women and domestic violence.<sup>25</sup> Further, Bosnia and Herzegovina has adopted a Gender Action Plan for 2013-2017, which seeks to achieve gender equality in all areas of social life and work, both in the public and the private spheres.

**70. GRETA considers that the authorities of Bosnia and Herzegovina should take vigorous measures to strengthen the prevention of THB through social, economic and other measures for groups vulnerable to THB, including 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)**

71. 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 Organs<sup>26</sup> 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.<sup>27</sup> 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.

72. The CC of the Republika Srpska criminalises the unauthorised transplantation of parts of the human body. Further, the Law on Transplantation of Human Organs<sup>28</sup> sets out the principles for the transplantation of organs, the organisational structure for medical transplantations, the transplant procedure, conditions for the removal of organs from living donors and the requirements for the removal of organs from deceased donors.

<sup>24</sup> Adopted at its eighty-sixth session (27 April–15 May 2015).

<sup>25</sup> Available at: [http://arsbih.gov.ba/wp-content/uploads/2015/10/CAHVIO\\_Strategy.pdf](http://arsbih.gov.ba/wp-content/uploads/2015/10/CAHVIO_Strategy.pdf).

<sup>26</sup> Opened for signature in Santiago de Compostela on 25 March 2015.

<sup>27</sup> See Council of Europe/United Nations, *Trafficking in Organs, Tissues and Cells and Trafficking in Human Beings for the Purpose of the Removal of Organs*, 2009, in particular pages 55-56; OSCE, *Trafficking in Human Beings for the Purpose of Organ Removal in the OSCE Region*, OSCE Occasional Paper No. 6, 2013.

<sup>28</sup> Official Gazette of the Republika Srpska 14/10.

73. In the Federation of Bosnia and Herzegovina, Article 12 of the Law on Transplantation of Organs and Tissues prohibits the illegal transplantation of organs. The conditions for the transplantation of human organs and tissues from a living or deceased person are stipulated in the Law on Transplantation of Organs and Tissues for Therapeutic Purposes.<sup>29</sup> According to the authorities, the law is based on the principles of the Council of Europe Convention on Human Rights and Biomedicine and its Additional Protocol concerning Transplantation of Organs and Tissues of Human Origin.

**74. GRETA encourages Bosnia and Herzegovina to sign and ratify the Council of Europe Convention against Trafficking in Human Organs as this would contribute to the prevention of trafficking for the purpose of organ removal.**

75. Transplantations take place at the University Clinical Centre of the Republika Srpska in Banja Luka and the Sarajevo University Clinical Centre. In the Federation of Bosnia and Herzegovina, there are three clinics accredited to perform organ transplants and two hospitals authorised to transplant kidneys. However, the authorities stated that due to insufficient training of medical personnel, most transplantations take place abroad. Transplantation activities are monitored by the Ministries of Health of the Federation of Bosnia and Herzegovina and the Republika Srpska.

76. The authorities have received no reports of THB for the purpose of the removal of organs. No training has been provided to medical doctors and other relevant professionals as regards THB for the purpose of the removal of organs.

**77. GRETA considers that, as part of their training, health-care professionals and other staff involved in organ transplantations should be sensitised to THB for the purpose of organ removal.**

#### **f. Measures to discourage demand (Article 6)**

78. In its first report, GRETA considered that the authorities of Bosnia and Herzegovina should take further steps to discourage demand for services of victims of trafficking, including through raising awareness.

79. According to the authorities, the awareness-raising campaign referred to in paragraph 42, implemented by the NGO "IFS-Emmaus" in 2013, contained measures to discourage demand for the services of victims of THB. For example, the poster produced as part of this campaign, which contained information about the new legislative provisions and the sentences foreseen for the criminal offence of THB, targeted clients of victims of trafficking in human beings for different forms of exploitation. Public discussions on TV and radio which took place as a part of this campaign, in particular about THB for the purpose of sexual exploitation and new trafficking trends, aimed at addressing the demand side.

**80. GRETA considers that the authorities of Bosnia and Herzegovina should continue and 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)**

81. In its first report, GRETA considered that the authorities of Bosnia and Herzegovina should make further efforts to detect and prevent THB through border control measures, provide regular training on THB and the identification of victims to Border Police staff, immigration officers and diplomatic and consular staff, and introduce a checklist to identify THB-related risks during the visa application system.

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<sup>29</sup> Official Gazette of the Federation of Bosnia and Herzegovina 75/09.

82. The authorities have stated that Border Police staff receive regular training on the detection and prevention of human trafficking (see paragraph 28). Representatives of the Border Police are members of the RMTs and are engaged in trans-frontier co-operation with the border control agencies of other countries pursuant to existing agreements. With a view to detecting and preventing trafficking, all border crossing points have been equipped with document readers connected to central databases, as well as the Interpol database.

83. Further, the authorities have indicated that a check-list for visa applications was introduced, which includes risk assessment of irregular migration and human trafficking. The consular services of Bosnia and Herzegovina abroad issue visas upon clearance from the Foreigners' Affairs Service, which carries out assessment of visa applications, including trafficking- and smuggling-related risks.

84. In 2015 and 2016, there were no cases of identification of victims of THB as a result of border control measures.

85. While welcoming the efforts to improve the capacities of border police officers to detect and identify victims of trafficking, **GRETA considers that the authorities of Bosnia and Herzegovina should step up their efforts to detect potential victims at border crossings, including among asylum seekers.**

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

### **a. Identification of victims of THB (Article 10)**

86. In its first report, GRETA urged the authorities of Bosnia and Herzegovina to disconnect the formal identification of victims of human trafficking from the initiation of criminal proceedings and to promote a multi-agency approach to victim identification by introducing a National Referral Mechanism which defines the roles and procedures of all frontline staff who may come into contact with victims of trafficking. Further, GRETA urged the authorities of Bosnia and Herzegovina to provide specialised training on the identification of victims of THB to all frontline staff and to ensure that relevant actors adopt a more proactive approach and increase their outreach work to identify possible victims of trafficking.

87. The procedure for the identification of victims of THB continues to be regulated by the "Rules on the protection of victims of THB who are nationals of Bosnia and Herzegovina" and the "Rulebook on the protection of foreign victims of trafficking in persons". According to the authorities, these documents constitute the National Referral Mechanism of Bosnia and Herzegovina. Following the entry into force of the new Law on Foreigners, a revised version of the "Rulebook on protection of foreign victims of trafficking in persons" was published on 21 October 2016.<sup>30</sup> The revision does not change the procedure for the identification of foreign victims, only the numbering of the articles has changed.

<sup>30</sup> Available in Bosnian at: [http://msb.gov.ba/PDF/Pravilnik\\_o\\_zastiti\\_stranaca\\_zrtava\\_trgovine\\_ljudima\\_B03112016.pdf](http://msb.gov.ba/PDF/Pravilnik_o_zastiti_stranaca_zrtava_trgovine_ljudima_B03112016.pdf).

88. As explained in GRETA's first evaluation report, any institution, NGO and physical or legal person who suspects that a person might be a victim of trafficking should inform the State Information and Protection Agency (SIPA) and the State Prosecutor's Office or the Prosecutor's Offices or police departments of the entities or the Brčko District. The procedure for the identification of victims who are nationals of Bosnia and Herzegovina is based on information gathered by the competent authorities (police and prosecution) and a voluntary interview with the possible victim of trafficking.<sup>31</sup> In the case of foreign citizens who might be victims of human trafficking, the competent authority performing identification is the State Ministry of Security, which interviews possible foreign victims who are referred to it by any agency who detect them.<sup>32</sup> If the relevant authority concludes that a person a victim of THB, he/she is provided with accommodation in a shelter and assistance measures (see paragraphs 98-101).

89. The concerns expressed by GRETA in its first report about the identification procedure of victims are still valid. The identification depends to a large extent on the case being qualified as human trafficking by the law enforcement agencies and prosecutors which detect the offence or receive reports about it. If THB cases are prosecuted as other offence, this results in failure to identify victims of trafficking. Further, if a victim of trafficking does not co-operate with the investigating and prosecuting authorities, he/she is not identified as a victim. This excludes the victim from access to State-funded assistance (see also paragraph 101). According to the report "Assessment of Referral Mechanisms for Victims of Trafficking in Bosnia and Herzegovina" referred to previously, the involvement of social workers or NGOs in the identification of victims of THB is very rare.

90. While it is positive that the Regional Monitoring Teams was reinforced by including labour inspectors and mental health centres staff, these teams have no mandate to identify victims of trafficking and do not play an active part in the identification process.

91. Guidelines have been prepared in order to assist different professional groups in the identification and assistance of victims of THB, some of which include lists of indicators for identifying victims of THB.<sup>33</sup> However, from its discussions with stakeholders during the second evaluation visit, GRETA concludes that these guidelines are not well-known or used.

92. GRETA was not informed of any proactive identification activities or outreach work targeted at identifying adult victims of trafficking. Further, GRETA notes that there is no country-wide anti-trafficking telephone helpline.

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<sup>31</sup> Article 7, paragraph 2, of the "Rules on the protection of victims of THB who are nationals of Bosnia and Herzegovina".

<sup>32</sup> Article 9 of the "Rulebook on the protection of foreign victims of trafficking in persons".

<sup>33</sup> For example, "Guidelines on the conduct of Regional Monitoring Teams", "Handbook on direct assistance to victims of trafficking in human beings in Bosnia and Herzegovina", "Guidelines on the conduct of social welfare centres with victims of trafficking", "Guidelines on the conduct of Mental Health Centres with victims of trafficking", "Handbook on the protection of victims of trafficking in Bosnia and Herzegovina".

93. The number of victims of THB for the purpose of labour exploitation remains low. While it is positive that labour inspectors have been included in the Regional Monitoring Teams, more efforts are needed from all stakeholders concerned to address this form of THB. According to the State Ministry of Human Rights and Refugees, identification of victims of THB for the purpose of labour exploitation is difficult because of the lack of experience among relevant professionals, the absence of support systems for this category of victims and their unwillingness to report abuse to the authorities. It should be noted, however, that in the so-called "SerbAz case", which concerned workers exploited on construction sites in Azerbaijan and was discussed in GRETA's first report,<sup>34</sup> the State Prosecutor issued an indictment for THB for the purpose of labour exploitation in 2014, with 672 persons as injured parties, including 652 citizens of Bosnia and Herzegovina, 16 citizens of Serbia and 4 citizens of "the former Yugoslav Republic of Macedonia" (see also paragraph 175). In their comments on GRETA's draft report, the authorities of Bosnia and Herzegovina have indicated that these persons did not appear in the 2014 statistics of victims of trafficking because their recruitment and exploitation took place several years earlier. Nevertheless, according to the authorities, they received free legal assistance and counselling.

94. No victims of human trafficking have been identified among asylum seekers in Bosnia and Herzegovina and, according to the NGO "Vasa Prava", there were no cases of foreign victims of trafficking seeking asylum in 2015. According to Article 16, paragraph 2, of the revised "Rulebook on the protection of foreign victims of trafficking in persons", an identified victim of trafficking who is accommodated in a shelter and has filed a request for asylum can remain in the shelter until a final decision on the asylum request is taken. GRETA was informed by UNHCR that the availability of interpreters is limited and the pool of available languages is small. UNHCR has organised training of interpreters used by the Ministry of Security's Sector for Asylum and the Service for Foreigners' Affairs, but more work should be done in this area.

**95. Recalling the recommendations made in its first report, GRETA urges the authorities of Bosnia and Herzegovina to take additional steps to improve the identification of victims of human trafficking, in particular by:**

- **ensuring that the formal identification of victims of human trafficking does not depend on their co-operation with the investigating and prosecuting authorities;**
- **strengthening multi-disciplinary co-operation in the identification process, by involving specialised NGOs, labour inspectors, social workers and other front-line professionals and ensuring that stakeholders are trained to use victim identification tools and indicators;**
- **ensuring that law enforcement officials, labour inspectors, social workers, NGOs and other relevant actors adopt a more proactive approach and increase their outreach work to identify victims of human trafficking for all forms of trafficking.**

**96. Further, GRETA invites the Bosnian authorities to consider the creation of a country-wide telephone helpline for victims of THB.**

**b. Assistance measures (Article 12)**

97. In its first report, GRETA urged the authorities of Bosnia and Herzegovina to take measures to ensure that the assistance measures provided for in law are guaranteed in practice and to provide adequate funding for victim services delivered by NGOs. Further, GRETA urged the authorities to facilitate the reintegration of victims of trafficking into society by providing vocational training and access to the labour market.

98. The system of providing assistance to victims of human trafficking continues to be regulated by the "Rules on the protection of victims who are nationals of Bosnia and Herzegovina" and the "Rulebook

<sup>34</sup> See paragraphs 155-157 of GRETA's first report.

on the protection of foreign victims of trafficking in persons". Victims are entitled to safe accommodation, medical assistance, access to information about their rights, and legal assistance during criminal proceedings. However, as concerns foreign victims of trafficking, the revised "Rulebook on the protection of foreign victims of trafficking in persons introduced in 2016 some restrictions on their rights, namely only foreign victims placed in shelters are entitled to receive assistance and they can access only emergency medical care. Moreover, the revised Rulebook stipulates that victims placed in shelters are entitled to legal aid only in matters concerning their status, as opposed to the previous version of the Rulebook pursuant to which they were entitled to legal aid to exercise their rights during criminal and other proceedings. On a positive note, the entitlement to psychological support has been included into the list of foreign victims' rights.

99. The State Ministry of Security and the State Ministry of Human Rights and Refugees are the two bodies responsible for ensuring the provision of assistance to victims of trafficking. They organise an annual tender to select NGOs which provide assistance to victims of trafficking and conclude agreements with them. The State Ministry of Human Rights and Refugees provides funding for the assistance to victims who are nationals of Bosnia and Herzegovina (60 000 BAM, i.e. 30 000 Euros per year) and the State Ministry of Security provides funding for foreign victims (120 000 BAM, i.e. 60 000 Euros per year). However, in recent years, identified victims of trafficking have been almost exclusively Bosnian nationals. At the time of GRETA's visit, the State Ministry of Human Rights and Refugees was lacking sufficient funds to finance support for domestic victims, while the budget for foreign victims was not fully used. The authorities could not agree on adapting these budgetary allocations or create a common fund for the assistance to all victims of trafficking. In their comments on GRETA's draft report, the authorities have informed GRETA that negotiations were continuing in order to reach an agreement on adapting the budgetary allocations or creating a common fund for assistance to all victims of trafficking.

100. The same two NGOs that had agreements at the time of the first visit, "IFS-Emmaus" and "Medica Zenica", continue to have agreements for the provision of assistance to victims of trafficking and run the shelters mentioned in the first report.<sup>35</sup> The available assistance is geared towards female victims, in particular of sexual exploitation. No specific accommodation or other assistance is foreseen for male victims, with the exception of four places provided by "IFS-Emmaus". There are no structures for providing assistance to victims of THB outside shelters. This would fall under the responsibility of social welfare centres which, however, do not have human and financial resources to deal with trafficking cases. Health care to victims of THB is provided in the shelters which have signed protocols with local hospitals, but it is not guaranteed outside the shelters. Free legal aid is offered to victims of trafficking by the NGO "Vasa Prava", which has signed a protocol with the responsible ministries.

101. GRETA is concerned that in practice, the provision of assistance is conditional on the victim's willingness to report the case and act as a witness,<sup>36</sup> which runs against Article 12, paragraph 6, of the Convention. Further, as noted in paragraph 89, in practice, access to the State-funded assistance programme is dependent on the qualification of the case as THB.<sup>37</sup> If this is not the case, the victim can only receive assistance if an NGO has funds from other sources.

102. According to the authorities, the reintegration of victims of trafficking is planned in co-operation with competent institutions and organisations (social welfare centres, NGOs, educational establishments, health care providers). An individual reintegration plan is agreed with the victims, including vocational training. Since 2013, victims of trafficking residing legally in Bosnia and Herzegovina have the right of access to the labour market. GRETA welcomes this development. However, GRETA notes that in practice, after leaving the shelters, victims of trafficking experience problems in finding accommodation, accessing social welfare, health care and the educational system, as well as finding employment. There are no State funds available for reintegration measures for victims of trafficking.

<sup>35</sup> See paragraphs 110-112 of the first report.

<sup>36</sup> See IFS-Emmaus, *Report on Trafficking in Human Beings in 2015 in Bosnia and Herzegovina*, 2016, page 36.

<sup>37</sup> See L.Sorrentino, *Assessment of Referral Mechanisms for Victims of Trafficking in Bosnia and Herzegovina*, 2016, page

103. **GRETA urges the authorities of Bosnia and Herzegovina to ensure that all possible and formally identified victims of trafficking, irrespective of their nationality and regardless of whether they co-operate with the investigating/prosecuting authorities and are accommodated in shelters, receive adequate assistance in accordance with their needs. This should include measures to:**

- **ensure adequate funding for NGO service providers to work with victims of THB;**
- **ensure access to health care to all victims of THB;**
- **develop capacities for assistance, including safe accommodation, adapted to the specific needs of male victims of THB;**
- **facilitate the reintegration of victims of trafficking into society by establishing long-term programmes and providing them with vocational training and assistance to find employment.**

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

104. In its first report, GRETA urged the authorities of Bosnia and Herzegovina to improve the identification of child victims of trafficking who are subjected to forced begging and other forms of exploitation. GRETA also urged the authorities to improve the system for providing assistance to child victims of trafficking, both in terms of accommodation and as regards medium-and long-term support programmes tailored to the needs of the children.

105. The identification procedures described in paragraph 88 apply also to children. Both bylaws contain procedures for child victims of human trafficking, based on the best interests of the child. According to Article 20 of the "Rulebook on the protection of foreign victims of human trafficking", a foreign child enjoys the same rights to care and protection as children who are citizens of Bosnia and Herzegovina.

106. When a child is identified as a victim of human trafficking, the competent centre for social work appoints a guardian. Foreign child victims and children whose reintegration into their family is considered not to be in their best interests are placed in a shelter. A reintegration plan is developed which addresses access to education and health care. In 2014-2016, one foreign child victim of trafficking was placed in a shelter and a guardian was appointed. According to the authorities, so far, no children have disappeared from a shelter. Staff are present 24 hours a day in the shelter.

107. Pursuant to Article 10, paragraph 5, of the "Rulebook on the protection of foreign victims of trafficking", if the age of a victim of human trafficking is unknown and there are reasons to believe that the person is a child, he/she is to be treated under the presumption that he/she is a child. Age verification is the responsibility of social welfare centres and the police. According to the authorities, if it is not possible to verify the age through documents or witnesses, the age is determined through an anthropometric assessment by medical staff. GRETA notes that this method of age assessment does not take into account psychological, cognitive or behavioural factors. **GRETA invites the authorities of Bosnia and Herzegovina 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.**<sup>38</sup>

108. As noted in paragraph 56, there are six day centres for children, in Sarajevo, Tuzla, Zenica, Banja Luka, Mostar and Bijeljina, which operate mobile teams for outreach work and are included in the National Referral Mechanism. The mobile team in Sarajevo is an example of outreach focusing on

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<sup>38</sup> [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.

children belonging to risk groups. It was started as a project with external funding in 2009 and was transformed into a structural unit of the social service centre in 2013. It consists of three team members: a social worker, a person specialised in THB and a Roma mediator. The mobile team visits and looks for places where there are children in street situations. If necessary, the team members bring the children to the day centre in Sarajevo and start working with them and their parents. Cases of possible victims of THB are reported to the responsible bodies.

109. The NGO "Zemlja Djece" in Tuzla works with the local Roma communities and can identify potential trafficking situations. This NGO has developed indicators for the identification of child victims of human trafficking which have been distributed to all relevant stakeholders and are used by all relevant institutions and organisations.

110. However, GRETA was informed that officials of social welfare centres do not always react appropriately to cases of forced child begging or child, early or forced marriages in the Roma community, which they tend to see as part of Roma customs, and return children to their families even when the parents have been involved in the exploitation of the child (see paragraphs 62 and 110).

111. Identified child victims of trafficking are placed in shelters for victims of THB which accommodate both adults and children. After leaving the shelter, they are provided with assistance by day centres for children at risk. This includes psycho-social support for the victims and their families, as well as material, educational and other necessary support. These centres receive little or no funding from the State budget. The 2016-2019 Action Plan against THB provides for strengthening the human and financial resources of day centres and ensuring their operation. In their comments on GRETA's draft report, the authorities of Bosnia and Herzegovina have indicated that a project currently implemented in co-operation with Save the Children International aims at strengthening the human and financial resources of day centres and the capacity of the local authorities to open more day centres.

112. The GRETA delegation visited the day centre for children in Sarajevo, established in 2013. The centre provides day care and activities for up to 15 children and, in addition, long-term accommodation for up to five children. Upon request of a social service centre, children can stay at the centre for up to two months, with a possible extension of a further two months. The centre has eight employees, including a psychologist, a pedagogue, a social worker, a nurse and a mediator. Two staff members are always present during the day and one at night.

113. The previously mentioned report "Assessment of the referral mechanisms for victims of trafficking in Bosnia and Herzegovina" highlights several problems related to the provision of assistance to child victims of trafficking.<sup>39</sup> According to it, the existing shelters for victims of THB are often not suited to children. The authorities often have difficulties in conducting a multi-disciplinary best interest determination process and to develop durable solutions and tailored support programmes for trafficked children. Further, when there is an urgent need to remove a child from the street and the parents cannot be located or there is an immediate safety risk for a child, emergency accommodation facilities are often lacking. There is a lack of alternative foster or community-based placement options for children and in 2014, 1302 children were placed in institutional care.<sup>40</sup>

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<sup>39</sup> See pp 29-30.

<sup>40</sup> See <http://www.openingdoors.eu/where-the-campaign-operates/bosnia-and-herzegovina>.



114. **GRETA urges the authorities of Bosnia and Herzegovina to make efforts 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, including by continuing to pay attention to children in street situations;**
- **providing further training to stakeholders (police, prosecutors, NGOs, centres for social welfare, child specialists) and guidance on the identification of child victims of THB, based on an agreed understanding of the concepts of trafficking for the purpose of forced begging, forced criminality and early, child or forced marriages;**
- **providing 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.**

**d. Protection of private life (Article 11)**

115. The duty to protect the data, privacy and identity of victims of human trafficking is stipulated in the "Rulebook on the protection of foreign victims of human trafficking" and the "Rules for the protection of witnesses and victims-witnesses of human trafficking who are citizens of Bosnia and Herzegovina" and concerns all professionals involved in the National Referral Mechanism.

116. GRETA was informed that in some cases information on the identity of victims of trafficking was leaked to the media (see also paragraph 185). According to the authorities, the Ministry of Security is preparing an instruction for keeping records on foreign victims of human trafficking, which is expected to be adopted in 2017. There is no similar instruction in preparation concerning domestic victims of trafficking.

117. **GRETA invites the authorities of Bosnia and Herzegovina to ensure the issuance of appropriate instructions covering the protection of the private life and identity to all victims of trafficking, including domestic victims, in line with Article 11 of the Convention.**

### **e. Recovery and reflection period (Article 13)**

118. In the first evaluation round, GRETA urged the authorities of Bosnia and Herzegovina to ensure that the recovery and reflection period provided for in Article 13 of the Convention is specifically defined in law. Further, GRETA urged the authorities to ensure that trafficked persons are systematically informed of the possibility to use the recovery and reflection period and are effectively granted such a period.

119. The recovery and reflection period has been incorporated in the new Law on Foreigners, Article 60, paragraph 2, of which provides that: "A foreigner in relation to whom there are grounds for suspicion that he/she is a victim of human trafficking shall acquire the status of a protected person as from the date of placement in a centre for victims of human trafficking, for a period of 30 days, which is considered to be a recovery and reflection period, so that he/she may decide as to whether he/she will co-operate with the relevant authorities in the investigation of the criminal offence of trafficking in human beings". A similar wording is contained in the "Rulebook on the protection of foreign victims of human trafficking".

120. GRETA notes that the granting of a recovery and reflection period is linked to the victim being placed in a shelter, which means that victims who do not wish to be placed in a shelter or for whom there are no places available in shelters, for example male victims, cannot benefit from this period. Further, GRETA understands that a prosecutor needs to assess whether the person concerned is a presumed trafficking victim.

121. Pursuant to Article 15 of the "Rulebook on the protection of foreign victims of human trafficking", during the 30-day recovery and reflection period, victims of human trafficking are entitled to assistance and protection which comprises accommodation, health care, psychological support, legal counselling in a language the victim understands and information on the possibility of, and procedure for, repatriation.

122. No statistics are available on the number of victims of THB granted a recovery and reflection period. The authorities have stated that all foreign victims of trafficking are systematically informed and effectively granted a recovery and reflection period of 30 days. At the shelter run by the NGO "ISF-Emmaus", it is part of the standard procedure to inform presumed foreign victims of the possibility to be granted a recovery and reflection period.

123. GRETA was informed that citizens of Bosnia and Herzegovina can also benefit from the recovery and reflection period depending on the assessment of experts (e.g. a psychologist) and in agreement with the competent Prosecutor's Office and police service.

**124. GRETA welcomes the introduction of a recovery and reflection period in law. However, GRETA considers that the procedure for granting a recovery and reflection period should be spelled out and the authorities 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. Further, the authorities of Bosnia and Herzegovina should ensure that victims of human trafficking are systematically informed of the recovery and reflection period.**

### **f. Residence permits (Article 14)**

125. In its first report, GRETA considered that victims of trafficking should fully benefit from the right to obtain a renewable residence permit in compliance with Article 14 of the Convention, including those who were identified as victims of trafficking but whose cases did not lead to a criminal prosecution.

126. The new Law on Foreigners provides for two alternative grounds for issuing temporary residence permits to victims of trafficking, both of which were already foreseen in the previous law. Pursuant to Article 58, paragraph 2, alinea a, of this law:

“Temporary residence on humanitarian grounds may be granted to (...) an alien who has been a victim of human trafficking for the purpose of:

- 1) providing him/her with protection and assistance for recovery and repatriation to his/her country of origin, habitual residence or a country which admits the alien; or
- 2) providing him/her with protection and assistance when necessary for co-operation with the competent authorities in investigating and prosecuting the criminal case of trafficking in human beings.”

127. This provision applies both to adult and child victims. In the context of children, it needs to be read together with the specific provisions of the “Rulebook on the protection of foreign victims of human trafficking”, in particular Article 20, which provides that all actions by competent organs must be undertaken in the best interests of the child, with utmost care and protection as required by the welfare of the child. The authorities have indicated that in 2014-2016, residence permits were granted to two child victims of trafficking.

128. The residence permit on humanitarian grounds may be granted on the basis of a recommendation by a medical doctor from a registered medical institution concerning the need for the person to remain in the country for treatment or rehabilitation, or a recommendation by the body or organisation conducting the repatriation concerning the need to grant a certain period of time for the preparation of the repatriation of the person concerned.

129. The temporary residence permit on the basis of co-operation with the competent authorities may be granted when two conditions are fulfilled: first, the victim has to declare in writing that he/she intends to co-operate with the relevant authorities and second, the prosecutor's office has to declare that the presence of the victim is necessary for the purpose of investigating and prosecuting the THB offence.

130. According to Article 58, paragraph 8, of the Law on Foreigners, the residence permit for victims of trafficking is granted for six months and is renewable. It gives access to the labour market, professional training and education. The authorities have indicated that in 2015 one residence permit granted in 2014 was extended for a victim of trafficking, and in 2016 one residence permit was granted to a victim of trafficking.

**131. GRETA considers that the authorities of Bosnia and Herzegovina should ensure that all foreign victims of human trafficking are properly informed about their right to receive a renewable residence permit, without prejudice to the right to seek and enjoy asylum. Police officers, prosecutors, officers of the Service for Foreigner's Affairs and social workers should be adequately trained and given clear guidance in this respect.**

#### **g. Compensation and legal remedies (Article 15)**

132. In its first report, GRETA urged the authorities of Bosnia and Herzegovina to review the legislation on compensation in order to ensure that victims of human trafficking have an effective possibility to obtain compensation from the perpetrators. Further, GRETA urged the authorities to set up a State compensation scheme accessible to victims of trafficking.

133. According to the authorities, a review of the existing legislation on compensation was conducted in 2014. It concluded that the existing legislative framework for granting compensation under the criminal and the civil procedure is sufficient. The review showed that there was only limited jurisprudence and indicated the necessity to raise the awareness of judges and prosecutors and to train

them to effectively apply the relevant legislation. Subsequently, a manual for judges and prosecutors on compensation of victims of trafficking in human beings was developed by the NGO "IFS-Emmaus" in the framework of the project "Balkans ACT (Against Crime of Trafficking) Now!", with 300 copies of the manual being distributed to judges, prosecutors, law enforcement officers and other relevant actors.<sup>41</sup>

134. GRETA's observations from the second evaluation visit indicate that the situation of granting compensation to victims of trafficking has not changed since the first evaluation. The prosecutor should inform the victim about the possibility to file a claim for compensation in the criminal proceedings, but in practice victims are often discouraged do so because it would prolong the proceedings. GRETA was informed about a case where the criminal court decided on a small amount of compensation to be paid to the victim and left it to the victim to bring a claim before a civil court for the rest of the compensation.

135. Victims of trafficking refrain from seeking compensation before a civil court for a variety of reasons: the proceedings are lengthy and involve high costs, free legal aid is difficult to receive, there are no victim-witness protection measures during civil proceedings, and the burden of proof for material and non-material damages falls on the victim. GRETA did not receive information about any victim who actually received compensation from the perpetrator during the reporting period.

136. Despite the fact that there are laws on free legal aid in the Republika Srpska and some cantons within the Federation of Bosnia and Herzegovina, in practice free legal aid for victims of THB is provided by NGOs that are funded from international organisations and partly from domestic institutions budgets.<sup>42</sup> In certain parts of the country public free legal aid centres have been established, but the provision of free legal aid usually depends on whether the beneficiary has permanent residence within the area of jurisdiction of the centre.

137. Bosnia and Herzegovina has not yet set up a State compensation scheme for victims of violent crime. GRETA was informed about attempts to develop such a scheme which, however, face difficulties due to political and financial problems. In 2016, within the project "Balkans ACT Now!", "IFS-Emmaus" set up a working group which developed a preliminary draft of a law on the setting up of a compensation fund for victims of trafficking in human beings, based on a feasibility study on the establishment of such a compensation fund. With the support of the Ministry of Security, the preliminary draft was submitted to the Ministry of Justice of Bosnia and Herzegovina for further processing.

**138. Recalling the recommendations made in its first report, GRETA once again urges the authorities of Bosnia and Herzegovina to adopt measures to facilitate and guarantee access to compensation for victims of THB, in particular by:**

- **reviewing the criminal and civil procedures regarding compensation from perpetrators with a view to improving their effectiveness;**
- **ensuring that victims of THB are systematically informed of their right to claim compensation and the procedures to be followed;**
- **enabling victims of THB to exercise their right to compensation by guaranteeing them effective access to legal aid;**
- **strengthening the capacity of law practitioners to help victims to claim compensation and incorporating the issue of compensation in the training programmes for members of law enforcement agencies and the judiciary;**

<sup>41</sup> The manual is available at:

[http://eurcenter.net/images/PDF/Handbook%20for%20Judges%20and%20Prosecutors\\_Compensation\\_eng\\_Final%20Knjizni%20Blok.pdf](http://eurcenter.net/images/PDF/Handbook%20for%20Judges%20and%20Prosecutors_Compensation_eng_Final%20Knjizni%20Blok.pdf)

<sup>42</sup> IFS-Emmaus, *Report on Trafficking in Human Beings in 2015 in Bosnia and Herzegovina*, 2016, pp 38-42, available at: <http://eurcenter.net/images/PDF/monitoring%20report%20BiH-ENG%20final%20za%20objavu.pdf>

- **setting up a State compensation scheme accessible to victims of THB, regardless of their nationality and immigration status.**

#### **h. Repatriation and return of victims (Article 16)**

139. In its first report, GRETA considered that the authorities of Bosnia and Herzegovina should take further steps to ensure that the return of victims of trafficking is conducted with due regard for the rights, safety and dignity of the person and the status of legal proceedings, including protection from retaliation and re-trafficking.

140. The procedures for repatriation of trafficking victims have not undergone significant changes since the first evaluation. Pursuant to Article 19 of the "Rulebook on the protection of foreign victims of trafficking", the State Ministry of Security in co-operation with the State Ministry of Foreign Affairs is responsible for carrying out the repatriation of foreign victims of THB. The return of foreign victims of trafficking to their countries of origin is carried out either on the basis of readmission agreements with the countries concerned or with the assistance of IOM (on the basis of an agreement concluded in 2005) and NGOs. According to the authorities, the agreements concluded with the NGOs "IFS-Emmaus" and "Medica Zenica" contain provisions on the preparation and implementation of the return and repatriation of foreign victims of THB.

141. Article 22 of the "Rulebook on the protection of foreign victims of trafficking" prescribes the return procedure of child victims of trafficking. The competent centre for social work, in co-operation with the Ministry of Security, has to make contact with the competent authorities in the country of origin and carry out a best interests' determination and risk assessment prior to making practical arrangements for the child's return to the parents or to the competent guardianship authority. Social welfare services are in charge of determining the best interests of the child. Their staff have followed university studies on social protection and have been additionally trained, including by Save the Children International.

142. In cases of victims of trafficking from Bosnia and Herzegovina who were identified abroad, the "Rules for the protection of domestic victims" provide that the diplomatic or consular representation of Bosnia and Herzegovina shall provide support for the return of the victim, in collaboration with NGOs in the country of exploitation, and shall urgently issue documents needed for the person's return to Bosnia and Herzegovina. There are no specific procedures for the repatriation of child victims. In the "Hamidovic case", which concerned a number of children from Bosnia and Herzegovina trafficking to France for the purpose of committing criminal offences (see also paragraph 174), no child victims were repatriated to Bosnia and Herzegovina as the French authorities did not initiate such repatriations.

143. According to the authorities, risk assessment is always carried out by the competent institutions when deciding upon the return of a victim of trafficking, in co-operation with the authorities of the admitting country. All victims of trafficking in human beings who would be repatriated to Bosnia and Herzegovina are referred to the social welfare services, which would provide them with assistance for their reintegration into society.

144. According to the previously cited report on the assessment of the NRM, risk assessment addresses the risk of persecution, torture, inhuman or degrading treatment; however, other risk factors, such as risk of retaliation by traffickers, prosecution by the authorities, availability and accessibility of social support or health services for victims of trafficking, do not appear to be assessed. Concerning the best interests' determination for child victims it remains unclear to what extent in practice the process is multi-disciplinary, whether the views of the child are heard and whether the degree of integration of the child is considered.

145. The authorities have indicated that in 2013-2014, two women victims of trafficking who had been identified in 2012 were returned from Bosnia and Herzegovina to their countries of origin (Bulgaria and

Germany). In 2013-2016, two citizens of Bosnia and Herzegovina, one man and one woman, were returned from Croatia and Montenegro.

**146. GRETA considers that the authorities of Bosnia and Herzegovina should take additional steps to:**

- **ensure that the return of victims of trafficking is conducted with due regard for their rights, safety and dignity. This includes informing victims about existing programmes, protecting them from re-victimisation and re-trafficking and, in the case of children, fully respecting the principle of the best interests of the child;**
- **continue to develop international co-operation in order to ensure proper risk assessment and safe return, as well as effective reintegration of victims of THB;**
- **ensure compliance with the *non-refoulement* obligation under Article 40, paragraph 4, of the Convention, taking into account the UNHCR’s Guidelines on the application of the Refugees Convention to trafficked people and their possible entitlement to asylum when deciding upon applications for asylum of persons who are at risk of being re-trafficked or otherwise persecuted should they be obliged to return to their State of origin or residence.**

### **3. Substantive criminal law**

#### **a. Criminalisation of THB (Article 18)**

147. In its first report, GRETA urged the competent authorities to ensure that the offence of human trafficking is incorporated in a consistent manner in all criminal codes in force on the territory of Bosnia and Herzegovina.

148. As noted in paragraph 15, the offence of trafficking in human beings was inserted into the Criminal Codes (CC) of the Republika Srpska and Brčko District in 2013. The State CC was subsequently modified to apply only to transnational cases of THB, i.e. situations where a citizen of Bosnia and Herzegovina is exploited abroad or a foreigner is exploited in Bosnia and Herzegovina. Article 186 of the State CC, entitled “International trafficking in human beings”, reads as follows:

“Whoever, by use of force or threat of use of force or other forms of coercion, abduction, fraud or deception, abuse of power or influence or a position of vulnerability, or by giving or receiving payments or other benefits to achieve the consent of a person having control over another person, recruits, transports, transfers, harbours or receives a person for the purpose of exploitation of that person in a country in which that person does not have residence or citizenship, shall be punished by imprisonment for a term of at least five years. (...) Exploitation, for the purpose of paragraph 1 of this Article, means: prostitution of another person or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of body parts or another type of exploitation.”<sup>43</sup>

149. The introduction of the criminal offence of THB was repeatedly delayed in the Federation of Bosnia and Herzegovina and was finally promulgated in June 2016. The offence of THB is now contained in Article 210a of the CC of the Federation,<sup>44</sup> Article 198a of the CC of the Republika Srpska<sup>45</sup> and Article

<sup>43</sup> Non-official translation.

<sup>44</sup> Article 210a, paragraphs 1 and 3, of the CC of the Federation of Bosnia and Herzegovina reads as follows: “(1) Whoever, by use of force or threat of use of force or other forms of coercion, abduction, fraud or deception, abuse of power or influence or a position of vulnerability, or by giving or receiving payments or other benefits to achieve the consent of a person having control over another person, recruits, transports, transfers, harbours or receives a person for the purpose of exploitation of that person, shall be punished by imprisonment for a term of at least five years. (...) Exploitation, for the purpose of this Article, means: prostitution of another person or other forms of sexual exploitation, forced labour or services, forced begging, slavery or similar status, servitude or the removal of body parts or some other type of exploitation” (non-official translation).

207a of the CC of the Brčko District.<sup>46</sup> In their comments on GRETA's draft report, the authorities of Bosnia and Herzegovina have indicated that, in parallel to the introduction of THB offences at entity and district level, the criminal offence of enticement to prostitution was abolished in the Criminal Codes of the Republika Srpska and Brčko District. In the Federation of Bosnia and Herzegovina, the relevant Article 210 was not abolished but only partially amended, which could cause problems as the criminal offence of enticement to prostitution can be applied to situations covered by the new Article 210a (trafficking in human beings).

150. In its first report, GRETA noted that the definition of THB in the State CC corresponded to the one in the Convention. The definitions of THB in the Criminal Codes of the two entities and the Brčko District Criminal Code are very similar to that of the State CC. All four definitions include the actions provided for in the Convention. The CC of the Republika Srpska contains in addition the actions "delivers, sells, purchases, intermediates in the sale, and keeps" and the CC of the Brčko District the action "delivers".

151. All four CC definitions of THB contain the means listed in the Convention and add one or more elements: "abuse of influence" in the State, Federation and Brčko District CC, "abuse of relationship", and "abuse of trust", "abuse of dependence" and "abuse of difficult circumstances of a person" in the CC of the Republika Srpska. However, the CC of the Republika Srpska does not explicitly mention the means "abuse of power" and the means "giving or receiving money or other benefits" is not complemented by the term "to achieve the consent of a person having control over another person" as foreseen in the Convention.

152. The four CC reflect all forms of exploitation addressed in the Convention, with the exception of Article 198a of the CC of the Republika Srpska where servitude is not mentioned among the forms of exploitation, and which refers to "use for pornographic purposes" instead of "other forms of sexual exploitation". The CC of the Federation of Bosnia and Herzegovina includes forced begging among the forms of exploitation and the CC of the Republika Srpska includes "perpetration of a criminal offence", "forced marriage", "forced sterilisation" and "use in armed forces". Further, illegal adoption as a form of exploitation is mentioned in Article 198b ("trafficking in children") of the CC of the Republika Srpska. It should be noted that in all four CC the list of forms of exploitation is an open one and includes the phrase "or another type of exploitation."

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<sup>45</sup> Article 198a, paragraph 1, of the CC of the Republika Srpska reads as follows: "Whoever, by force or threat of force or other forms of coercion, abduction, fraud or deception, abuse of relationship of trust, dependence or vulnerability, difficult circumstances of another person, by giving or receiving of money or other benefits, recruits, transports, transfers, delivers, sells, purchases, intermediates in sale, harbours, receives or keeps a person for the purpose of the use or exploitation of that person's labour, perpetration of a criminal offence, prostitution, use for pornographic purposes, establishment of slavery or similar relationship, forced marriage, forced sterilization, for the purpose of the removal of organs or body parts, for the use in armed forces or of some other type of exploitation, shall be punished by imprisonment for a term of not less than three years" (non-official translation).

<sup>46</sup> Article 207a, paragraph 1, of the CC of the Brčko District reads as follows: "Whoever, by force or threat of force or other forms of coercion, abduction, fraud or deception, abuse of power or influence or a position of vulnerability, or by giving or receiving money or other benefits to persuade a person having control over another person, recruits, transports, transfers, delivers, harbours or receives a person for the purpose of exploiting him/her, shall be punished by imprisonment for a term of not less than five years. For the purpose of this Article the exploitation shall mean: prostitution of another person or other forms of sexual exploitation, forced labour or services, slavery or similar relationship, servitude, removal of organs or body parts, or some other form of exploitation" (non-official translation).

153. All CC foresee a punishment of at least five years, with the exception of the CC of the Republika Srpska where it is three years. As explained in the first report, the State CC foresees higher penalties for all aggravating circumstances listed in Article 24 of the Convention. The THB offences at entity and district level foresee the same aggravated circumstances as the State CC, in general with the same penalties. Trafficking in children is punishable by at least 10 years' imprisonment (in the Republika Srpska, at least five and, if one of the means is used, eight years). If THB is committed by a public official in execution of his/her duties, the penalty is at least 10 years in the CC of the State, the Federation of Bosnia and Herzegovina and the Brčko District (in the Republika Srpska: eight years). In case the offence caused serious health damage, grievous bodily harm or the death of the victim, the punishment is imprisonment for a term of at least 10 years or long-term<sup>47</sup> imprisonment (in the Republika Srpska: a minimum of 10 years). Committing THB within the framework of a criminal organisation is punishable by imprisonment for a term of at least 10 years in the CC of the State, the Federation of Bosnia and Herzegovina and the Brčko District (in the CC of the Republika Srpska: at least five years or at least 10 years in case the victim is a child). Further, the organisation of a criminal group for the purpose of committing THB is punishable by imprisonment of three to 15 years in the Republika Srpska, and becoming a member of such a group or otherwise assisting it is punishable by imprisonment of one to 10 years.

154. **In order to ensure full compliance with the Convention, GRETA urges the authorities to complement the criminalisation of THB in the Republika Srpska by inserting "servitude" and "other forms of sexual exploitation" into the list of forms of exploitation, adding the means "abuse of power" and complementing the means "giving or receiving money or other benefits" with the term "to achieve the consent of a person having control over another person".**

155. **Further, in order to ensure a consistent application across the country, GRETA invites the authorities of Bosnia and Herzegovina to ensure that the same minimum penalty for the basic offence of THB is set out in all Criminal Codes throughout the country.**

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

156. As explained in the first report, the use of services of a victim of human trafficking is criminalised in the State CC. Following the amendments to the CC, the relevant paragraph in Article 186, paragraph 5 (paragraph 6 before the amendment), now refers to international THB and reads as follows:

"Whoever uses the services of a victim of international trafficking in human beings shall be punished by imprisonment for a term of between six months and five years."

157. The use of services of victims of trafficking is also criminalised in the Criminal Codes of the entities and the Brčko District with the same penalty. While the CC of the Federation of Bosnia and Herzegovina (Article 210a, paragraph 6) and the Brčko District (Article 207a, paragraph 5) use the same formulation as the State CC, the CC of the Republika Srpska (Article 198a, paragraph 4) is worded as follows:

"Whoever uses or enables another person to use sexual services or other forms of exploitation, and was aware that it concerns the victim of the human trafficking, shall be punished by imprisonment for a term between six months and five years."

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<sup>47</sup> Long-term imprisonment is defined in all four Criminal Codes as imprisonment between twenty-one and forty-five years.



158. So far, there have been no investigations, prosecutions or court proceedings on the basis of the above-mentioned provisions. **GRETA invites the authorities of Bosnia and Herzegovina to keep the application of the provisions criminalising the knowing use of the services of victim of trafficking under review with a view to ensuring that they are effectively applied in practice.**

#### **c. Corporate liability (Article 22)**

159. As described in the first report, Chapter Fourteen (Article 122 and following) of the State CC stipulates the conditions under which legal persons can be held criminally liable for a criminal offence perpetrated in the name of, for account of or in favour of the legal person. The penalties include fines (from 5 000 to 5 000 000 Bosnia and Herzegovina convertible marks, i.e. approximately from 2 560 to 2 560 000 euros), confiscation of property (for criminal offences punishable by a prison sentence of at least five years) and dissolution of the legal person when its activities were entirely or partly used for the purpose of perpetrating criminal offences (Articles 131-134 of the CC).

160. The Criminal Codes of the two entities and the Brčko District provide for similar rules as regards the liability of legal persons. According to the authorities, there have not been any investigations, prosecutions or court proceedings at State or entity level concerning corporate liability for human trafficking offences. **GRETA invites the authorities of Bosnia and Herzegovina to keep the application of the corporate liability provisions in THB cases under review with a view to ensure that they are effectively applied in practice.**

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

161. In its first report, GRETA urged the authorities of Bosnia and Herzegovina to take legislative or other measures allowing for the possibility of not imposing penalties on victims of THB for their involvement in unlawful activities, to the extent that they were compelled to do so.

162. As part of the amendments made to the THB offence in the State CC in 2015, a non-punishment provision was added as paragraph 10 of Article 186. It stipulates that "no criminal proceedings will be conducted against a victim of international trafficking in human beings who was forced by the perpetrator of the offence to participate in the commission of another criminal offence if such an action was the direct result of his/her status as a victim of international trafficking in human beings."<sup>48</sup>

163. When the offence of THB was introduced into the CC at entity and district level, both the Federation of Bosnia and Herzegovina (Article 210a, paragraph 10) and the Brčko District (article 207a, paragraph 9) included a non-punishment provision with very similar wording to that used in the State CC, without using the term "international" as they apply to internal THB. Only the CC of the Republika Srpska does not contain a specific non-punishment provision concerning victims of trafficking. In their comments on GRETA's draft report, the authorities of Bosnia and Herzegovina have indicated that the Government of the Republika Srpska has initiated an amendment of the CC with a view to introducing a provision concerning the non-punishment of victims of trafficking, which is currently pending adoption in Parliament.

164. Given that prostitution and begging are administrative offences in Bosnia and Herzegovina, and taking into account the problems related to the identification of victims of trafficking, GRETA is concerned that victims of trafficking, including children, might be punished for offences committed while they are being trafficked. GRETA refers to the Concluding Observations of the Committee on the Rights of the Child, which “urges the State party not to subject the children below the age of 18 to administrative or other types of liability for their involvement in prostitution, and provide them adequate protection and assistance.”<sup>49</sup>

165. **GRETA welcomes the adoption of specific legal provisions concerning the non-punishment of victims of trafficking for offences committed as a result of being trafficked in the State CC and the Criminal Codes of the Federation of Bosnia and Herzegovina and the Brčko District, and would like to be kept informed of the adoption of a similar provision in the Republika Srpska. GRETA considers that the authorities of Bosnia and Herzegovina should ensure full compliance with the non-punishment provision by developing guidance for police officers and prosecutors on its implementation.** 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.<sup>50</sup>

#### **4. Investigation, prosecution and procedural law**

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

166. In its first report, GRETA urged the authorities of Bosnia and Herzegovina to identify gaps in the investigation procedure and the presentation of cases in court, with a view to ensuring that crimes related to THB are investigated and prosecuted effectively. Further, GRETA urged the authorities to strengthen efforts to proactively investigate THB offences. GRETA also considered that the knowledge and awareness of judges, prosecutors, investigators and lawyers about THB needed to be improved.

167. With the introduction of THB offences in the CC at district and entity level, the limitation of the State CC to international THB cases and the prevalence of internal trafficking, an important shift of THB cases being handled by State police officers, prosecutors and judges to those at district and entity level has taken place. As noted in paragraphs 28-31, training sessions on THB have been organised for police officers, prosecutors and judges. GRETA met with some prosecutors specialised on THB cases, but there was general agreement that more prosecutors and judges with these competencies are needed.

168. There are 16 police agencies in Bosnia and Herzegovina, which are differently structured. In some agencies, police officers trained to work on THB cases are part of organised crime departments, while in other agencies they form part of sexual offences departments or general crime departments. With the exception of the State Investigation and Protection Agency (SIPA), there are no specialised police officers working exclusively on THB cases. SIPA has 12 specialised police officers (including three women) who exclusively work on THB cases.

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<sup>49</sup> Concluding observations on the initial report of Bosnia and Herzegovina submitted under article 12 of the Optional Protocol to the Convention on the sale of children, child prostitution and child pornography, adopted by the Committee at its sixty-third session (27 May – 14 June 2013).

<sup>50</sup> <http://www.osce.org/secretariat/101002?download=true>

169. As explained in GRETA's first report, the use of special investigative techniques is regulated by Chapter IX of the State Code of Criminal Procedure (Articles 117 and 118). These techniques include surveillance and technical recording of telecommunications, access to computer systems and computerised data processing, surveillance and technical recording of premises, physical surveillance and technical recording of individuals and objects, and use of undercover investigators and informants. An order for their use has to be issued by a court at the motion of a prosecutor or at the request of an authorised official who has the approval of the prosecutor. If there is a risk of delay, the order may be issued by the prosecutor, provided that it is confirmed by a judge within 72 hours. At entity level, the relevant legal provisions for the use of special investigation techniques in THB cases are contained in the Code of Criminal Procedure of the Federation of Bosnia and Herzegovina (Articles 130 and 131), the Criminal Code of the Republika Srpska (Articles 234 and 235) and the Code of Criminal Procedure of the Brčko District (Articles 116 and 117). The special investigative techniques used for investigating THB offences include surveillance and technical recording of telecommunications, surveillance of premises, covert surveillance and recording of individuals, use of undercover agents, simulated purchase of goods and simulated bribery. Statistics on use of special investigation techniques in THB cases are not available.

170. Blocking, filtering or removal of illegal Internet content may take place only upon issuance of a judicial order or other judicial decision. If the offence of trafficking in human beings is committed via the Internet and the servers are located in Bosnia and Herzegovina, the competent court may issue an order to ban access to websites or to remove content from these servers. Citizens can report suspicious content to law enforcement agencies through a special internet site established by the NGO "IFS-Emmaus" in 2010.<sup>51</sup> According to the authorities, the police in the Republika Srpska have a specialised cybercrime division which follows crimes committed through the Internet.

171. Judges and prosecutors informed GRETA that at State level, the burden of proof that the assets were not acquired by means of a crime cannot be shifted onto the offender and therefore they considered that the legislation should be amended to allow for broader confiscation. There has been only one case where money derived from the exploitation of victims was confiscated. The State CC provides in Article 110a for the extended confiscation of property acquired through the perpetration of certain criminal offences, including THB. In their comments on GRETA's draft report, the authorities of Bosnia and Herzegovina have indicated that courts often make decisions on the seizure and confiscation of illegally acquired property, including at the stage of the investigation, acting on proposals by prosecutors in cases of organised crime (including trafficking cases), based on Article 72, paragraph 4, of the Code of Criminal Procedure (temporary suspension a financial transaction) and Article 73 of the Code of Criminal Procedure (seizure of property for the purpose of securing).

172. At the entity level, there are laws on forfeiture of illicit assets and the burden of proof falls on the perpetrator. In the Republika Srpska, law enforcement agencies can seize assets on a temporary basis and the court can decide on confiscation. The Agency on Confiscated Assets was set up in 2010 and is part of the Ministry of Justice. There is a separate department within the Ministry of the Interior for financial investigations. Temporary seizure, which is applied to secure eventual payment of compensation, lasts for three months and can be continued by court decision. Permanent seizure has to be decided within a given time. After the indictment and no longer than one year after the final judgment, the court has to take a decision on definitive confiscation. Once the confiscation is final, assets become property of the Republika Srpska.

173. In the Federation of Bosnia and Herzegovina a new law on confiscation was enacted in 2015, but the management of confiscated assets was still problematic at the time of the evaluation visit because the asset management agency had not yet been set up. In their comments on GRETA's draft report, the authorities have indicated that the asset management agency in the Federation of Bosnia and Herzegovina was already operational.

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<sup>51</sup> [www.sigurnodijete.ba](http://www.sigurnodijete.ba)

174. Bosnia and Herzegovina has set up a joint investigation team (JIT) with France to investigate the "Hamidovic case" which concerned Bosnian citizens trafficked to France and forced to pickpocket and steal. The investigation has led to several arrests and indictments in Bosnia and Herzegovina. In their comments on GRETA's draft report, the authorities have indicated that one verdict was handed down against an official of the Ministry of Foreign Affairs, the former Consul of Bosnia and Herzegovina in France, for corruption related to this case (12 months' imprisonment and confiscation of illegal proceeds). The investigation of other suspects is ongoing. The authorities have referred to problems faced during the investigation, such as the need for extensive translation of documents and witness testimonies from the Roma language and the apparent reluctance of Roma translators to participate in the investigation.

175. In the so-called "SerbAz case" (see also paragraph 93), in May 2014, the Court of Bosnia and Herzegovina upheld the indictment for the criminal offence of organised crime under Article 250, paragraph 3, of the State CC, in conjunction with the criminal offence of THB in Article 186, paragraph 1 of the State CC. Proceedings against 13 accused persons have been underway since November 2014. On 28 February 2017, the Court of Bosnia and Herzegovina issued its first conviction in this case. The Court accepted the plea agreement concluded between one of the accused persons and the Prosecutor's Office as the accused had admitted committing the criminal offences and had accepted to testify against the other accused. The Court found the accused guilty of committing the criminal offence of trafficking in human beings in conjunction with the criminal offence of organised crime and sentenced him to one year and nine months of imprisonment.

176. According to the data on THB and related offences provided by the High Judicial and Prosecutorial Council of Bosnia and Herzegovina, prosecutors ordered 14 investigations against 31 persons in 2013, 14 investigations against 18 persons in 2014, 20 investigations against 30 persons in 2015, and eight investigations against 33 persons in 2016. In 2015, the country's Prosecutor's Offices decided to stop the investigation in 11 cases against 22 persons and filed nine indictments against 15 persons. In 2016, the Prosecutor's Offices suspended the investigation in three cases against three persons and filed six indictments against nine persons.

177. In 2013, 15 persons were convicted of THB (7 prison sentences and 8 suspended sentences). In 2014, 13 persons were convicted of THB (8 prison sentences and 5 suspended sentences) and in one case, four persons were acquitted. In 2015, the courts handed down 10 convictions against 14 persons; there was one acquittal of two persons. In 2016, the courts handed down five convictions against 10 persons, of which four were prison sentences against five persons and 2 were conditional sentences against 5 persons; there was one acquittal. The length of the prison sentences handed down in 2013-2016 varied between four months and three years.

178. In its first report, GRETA raised concerns by the application of the plea bargaining procedure in THB cases, which could partly explained the low number of convictions involving deprivation of liberty. The authorities have indicated that plea bargaining was applied in respect of the Ministry of Foreign Affairs official involved in the "Hamidovic case", concerning the charges of abuse of office (see also paragraph 174).

179. **GRETA considers the authorities of Bosnia and Herzegovina should take further measures to ensure that THB cases are investigated proactively, prosecuted successfully and lead to effective, proportionate and dissuasive sanctions, including by:**

- **sensitising prosecutors and judges to the rights of victims of THB and encouraging them to develop a specialisation to deal with THB cases;**
- **intensifying their efforts to identify, seize and confiscate criminal assets generated by trafficking offences;**
- **excluding THB from the plea bargaining procedure.**

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

180. In the first evaluation report, GRETA urged the authorities of Bosnia and Herzegovina to take legislative and practical measures to ensure the effective protection of victims of THB, including children, during the investigation and to prevent their intimidation during and after court proceedings.

181. As explained in the first report, the protection of witnesses and victims is regulated by the Law on Protection of Witnesses under Threat and Vulnerable Witnesses. In addition, the two entities and the Brčko District have adopted Laws on Protection of Witnesses in Criminal Proceedings in 2003. These laws provide for numerous protection measures for adult and child victims during criminal proceedings, such as giving testimony by means of by audio-visual equipment, removal of the accused during the testimony, measures to provide the anonymity of a witness and a special procedure of witness protected hearing.

182. In 2013-2016, the Witness Support Office of the Court of Bosnia and Herzegovina applied witness protection measures in two cases of trafficking. In these cases three victims/witnesses of human trafficking were accommodated in safe houses. Two of them testified from another room in hearings closed to the public. Further, in 2016, the Witness Support Office supported child victims during the investigation stage of a case of organised crime related to THB

183. The Guidelines for Conduct of Regional Monitoring Teams for the Fight against Trafficking in Human Beings provide guidance on protection of victims during criminal proceedings. A victim of trafficking in human beings has the opportunity to be assisted during the proceedings by a social worker, a psychologist and/or a representative of a NGO during the investigation or trial.

184. Child victims are regarded as vulnerable witnesses and can benefit from victim protection measures by decision of the competent court. According to the authorities, special rooms for interviewing child victims and witnesses exist in all law enforcement agencies and are used in THB cases. However, GRETA notes that the possibility to record the examination of a witnesses by audio-visual equipment (Article 90 of the State CPC) applies only to children under the age of 16 if there are grounds to fear that the witness cannot be examined at the main trial. Further, the legislation at State and entity level provides for protection measures for child victims of crime only in cases of sexual exploitation, neglect, abduction and pornography.

185. Some of the criticisms raised in GRETA's first report remain valid. The protection measures provided for in law are reportedly not offered consistently across the country. At entity level there is a lack of knowledge and technical equipment necessary for the implementation of protection measures. Further, GRETA received reports about cases where the identity of the victim had been leaked to the media and publicised, as well as cases where social welfare centres apparently revealed their sources of information to persons suspected of human trafficking (see also paragraph 116).

186. **GRETA considers that the authorities of Bosnia and Herzegovina should ensure that, in practice, full use is made of the available measures to protect victims and witnesses of THB and to prevent their intimidation during the investigation and during the court proceedings, including the special protection measures existing for children, in accordance**

**with the best interests of the child.** In this context, GRETA refers to the Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice.<sup>52</sup>

**187. GRETA also considers that the authorities of Bosnia and Herzegovina should ensure, if necessary by amending existing legislation, that all child victims of trafficking may benefit from protection measures, independently of their age and the form of exploitation they were subjected to.**

### **c. Jurisdiction (Article 31)**

188. According to Article 9, paragraph 1, alinea c, of the CC of Bosnia and Herzegovina, the national criminal legislation shall apply to anyone who, outside its territory, perpetrates a criminal offence which Bosnia and Herzegovina is bound to punish according to the provisions of international law and international treaties or inter-governmental agreements.

189. Further, according to Article 9, paragraphs 2 to 5, of the State CC, the national criminal legislation shall apply to a citizen of Bosnia and Herzegovina who, outside the territory of Bosnia and Herzegovina, perpetrates any criminal offence and to a non-citizen of Bosnia and Herzegovina who, outside the territory of Bosnia and Herzegovina, perpetrates against Bosnia and Herzegovina or its citizens a criminal offence, if the perpetrator is found within the territory of Bosnia and Herzegovina or has been extradited to it.

190. The criminal legislation of Bosnia and Herzegovina also applies to a non-citizen of Bosnia and Herzegovina who, outside the territory of Bosnia and Herzegovina, perpetrates against a foreign state or a non-citizen of Bosnia and Herzegovina a criminal offence which, under the law in force in the place of perpetration of the criminal offence, carries a punishment of imprisonment for a term of five years or more, if the perpetrator is found within the territory of Bosnia and Herzegovina and is not extradited to another country.

191. The Criminal Codes at entity and district level provide for the same rules on their application outside their territory as the State code. While in the State CC it has been clarified that it only applies to cases of international THB, the three CC at entity and district level do not stipulate that they only apply to national THB cases. In their comments on GRETA's draft report, the authorities of Bosnia and Herzegovina have indicated that there is no mechanism to avoid the conflict of jurisprudence when the jurisdiction of the State and entity or district level would apply at the same time.

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

### **a. International co-operation (Article 32 and 33)**

192. International co-operation related to action against THB is regulated by the State Law on International Legal Assistance in Criminal Matters, which was adopted in 2009 and amended in 2013.

193. At the international level, several treaties to which Bosnia and Herzegovina is a party are applicable to co-operation in the anti-trafficking area.<sup>53</sup> Bosnia and Herzegovina has concluded bilateral agreements on legal assistance in civil and criminal matters with Croatia, Montenegro, Serbia, Slovenia, Turkey and "the former Yugoslav Republic of Macedonia". In 2015, Bosnia and Herzegovina concluded an agreement on legal co-operation with Italy. The State Ministry of Justice is the central authority for processing requests for international legal assistance.

<sup>52</sup> [Guidelines of the Committee of Ministers of the Council of Europe on child friendly justice](#) (Adopted by the Committee of Ministers on 17 November 2010 at the 1098th meeting of the Ministers' Deputies)

<sup>53</sup> See paragraph 12 of GRETA's first evaluation report.

194. Law enforcement agencies of Bosnia and Herzegovina have carried out several successful joint investigations into transnational THB offences, including in the "Hamidovic case" (see paragraph 174). Another JIT was set up with the Netherlands and Austria in a case of THB for the exploitation of criminal activities of children. Further, investigations based on mutual legal assistance were implemented with Serbia, "the former Yugoslav Republic of Macedonia", Azerbaijan and Russia in the "SerbAz" case (see paragraph 93). In a case of THB for the purpose of sexual exploitation in Germany, a parallel investigation with Germany and Serbia took place. In 2016, the Sector for International Police Co-operation acted together with counterparts in other countries in 19 cases concerning THB, with the assistance of Interpol and Europol. In eight of these cases the co-operation was initiated by the law enforcement agencies of Bosnia and Herzegovina.

195. When it comes to co-operation in the search for missing people, in particular missing children, the authorities of Bosnia and Herzegovina co-operate with other State Parties through Interpol channels. The Interpol National Central Bureau Sarajevo distributes all missing children warrants notices from Interpol. In 2015 and 2016 there were no missing children notices initiated by the authorities of Bosnia and Herzegovina. No concrete steps have been taken for establishing the European telephone number for missing children. According to the authorities, the agreements on police co-operation that have been concluded with many countries contain provisions related to the co-operation in search for missing persons, including children.

**196. GRETA considers that the authorities of Bosnia and Herzegovina should continue their efforts in the area of international co-operation with a view to preventing human trafficking, assisting victims of trafficking, and investigating and prosecuting human trafficking offences, including with respect to missing children.**

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

197. The authorities of Bosnia and Herzegovina consider that co-operation with civil society in the field of action against human trafficking is well developed. Representatives of specialised NGOs participate in multi-disciplinary structures at State, entity and district levels (the Monitoring Team of the Council of Ministers and the RMTs). Specialised NGOs are consulted when preparing national strategies and action plans related to action against THB. NGOs also play an active role during public debates concerning relevant legislative amendments. NGO representatives confirmed the wide-ranging nature of co-operation with the State authorities, including with the law enforcement bodies. However, GRETA notes that trade unions have so far not been involved in action against THB in Bosnia and Herzegovina.

198. The State Ministry of Security has signed protocols of co-operation with two specialised NGOs ("IFS-Emmaus" and "Medica Zenica"), covering the provision of accommodation and assistance to foreign victims of THB, as well as a protocol on the provision of free legal aid to foreign victims of trafficking in human beings with the NGO "Vasa Prava". In addition, protocols have been signed by the NGO "Zemlja Djece" with the cantonal Ministries of Social Protection, the Interior, Health and Education in the Federation of Bosnia and Herzegovina on cross-sectoral co-operation to ensure safety and protection of children who may become victims of economic, sexual and other forms of exploitation or THB.

**199. GRETA welcomes the co-operation established between the authorities and NGOs and invites the authorities of Bosnia and Herzegovina to continue their efforts to build strategic partnerships with civil society and to develop co-operation with trade unions and the private sector.** In this respect, GRETA refers to the UN Guiding Principles on Business and Human Rights, endorsed by the UN Human Rights Council in its resolution 17/4 of 16 June 2011.

## IV. Conclusions

200. Since the adoption of GRETA's first report on Bosnia and Herzegovina in May 2013, progress has been made in a number of areas.

201. The authorities of Bosnia and Herzegovina have continued to develop the legal framework for combating trafficking in human beings, in the light of GRETA's previous recommendations. The criminal offence of trafficking in human beings was introduced in the criminal codes of the Republika Srpska, the Federation of Bosnia and Herzegovina and the Brčko District. Further, the new Law on Foreigners established the right of victims of human trafficking to be granted a recovery and reflection period and introduced access to the labour market and education for victims of human trafficking who have been granted a temporary residence permit.

202. Another positive development is the enlargement of the composition of the four Regional Monitoring Teams by including labour inspectors, representatives of mental health centres and day centres for children.

203. Further, GRETA commends the adoption of the 2016-2019 National Action Plan against Trafficking in Human Beings, following an evaluation of the implementation of the previous action plan. The commissioning of an independent evaluation of the National Referral Mechanism and the efforts made in the area of research are also welcome.

204. Efforts have been made to provide training to relevant professionals and to expand the categories of staff targeted, in particular labour inspectors who receive training based on a new manual on the detection and identification of victims of trafficking for the purpose of labour exploitation.

205. The authorities, in co-operation with civil society and international organisations, have continued efforts to raise awareness of human trafficking among the general public as well as targeted groups, paying particular attention to promoting online safety of children.

206. The mobile team in Sarajevo working with children in street situations is a good example of outreach work for detecting possible cases of child trafficking for different types of exploitation.

207. GRETA also welcomes the inclusion of specific legal provisions in the different criminal codes concerning the non-punishment of victims of trafficking for offences committed as a result of being trafficked.

208. Further, progress has been made in the area of international co-operation, including through the setting up of Joint Investigation Teams to investigate cases of transnational human trafficking. GRETA welcomes the fact that court proceedings have started in the "SerbAz case", which is a demonstration of the willingness for address trafficking for the purpose of labour exploitation.

209. However, despite the progress achieved, some issues give rise to concern. In this report, GRETA requests the authorities of Bosnia and Herzegovina 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**

- **GRETA urges the authorities of Bosnia and Herzegovina to set up a comprehensive statistical system on data related to measures to protect and promote the rights of victims as well as on the investigation, prosecution and adjudication of THB cases. Statistics regarding victims should be collected from all main actors at the State, entity and district levels, and should allow disaggregation by sex, age, type of exploitation, country of origin and country where the exploitation took place. This should be accompanied by all the necessary measures to respect the right of data subjects to personal data protection, including when NGOs working with victims of trafficking are asked to provide information for the national database. (paragraph 37)**
- **GRETA urges the authorities of Bosnia and Herzegovina to enhance their efforts to prevent trafficking for the purpose of labour exploitation, in particular by:**
  - **strengthening the monitoring of recruitment and temporary work agencies and reviewing the legislative framework, including by considering the introduction of licensing procedures;**
  - **sensitising relevant officials, in particular the police, prosecutors and judges, about THB for the purpose of labour exploitation and the rights of victims;**
  - **strengthening efforts to curb fraudulent job offers disseminated by means of the Internet;**
  - **working closely with the private sector, in line with the Guiding Principles on Business and Human Rights. (paragraph 51)**
- **GRETA urges the authorities of Bosnia and Herzegovina to strengthen their efforts to prevent child trafficking, including by:**
  - **sensitising and training child protection professionals across the country;**
  - **strengthening the role and capacity of social work centres to prevent trafficking in children and play a proactive role in alerting other relevant authorities to possible cases of trafficking and exploitation, including by providing sufficient means for trainings of social workers;**
  - **increasing efforts to tackle low school attendance of Roma children and their over-representation in special schools;**
  - **performing risk assessment before children are returned to their families and expanding foster care placements;**
  - **commissioning research about the phenomenon of child trafficking in Bosnia and Herzegovina as a basis for designing future prevention measures. (paragraph 66)**
- **Recalling the recommendations made in its first report, GRETA urges the authorities of Bosnia and Herzegovina to take additional steps to improve the identification of victims of human trafficking, in particular by:**
  - **ensuring that the formal identification of victims of human trafficking does not depend on their co-operation with the investigating and prosecuting authorities;**
  - **strengthening multi-disciplinary co-operation in the identification process, by involving specialised NGOs, labour inspectors, social workers and other front-line professionals and ensuring that stakeholders are trained to use victim identification tools and indicators;**

- **ensuring that law enforcement officials, labour inspectors, social workers, NGOs and other relevant actors adopt a more proactive approach and increase their outreach work to identify victims of human trafficking for all forms of trafficking. (paragraph 95)**
- **GRETA urges the authorities of Bosnia and Herzegovina to ensure that all possible and formally identified victims of trafficking, irrespective of their nationality and regardless of whether they co-operate with the investigating/prosecuting authorities and are accommodated in shelters, receive adequate assistance in accordance with their needs. This should include measures to:**
  - **ensure adequate funding for NGO service providers to work with victims of THB;**
  - **ensure access to health care to all victims of THB;**
  - **develop capacities for assistance, including safe accommodation, adapted to the specific needs of male victims of THB;**
  - **facilitate the reintegration of victims of trafficking into society by establishing long-term programmes and providing them with vocational training and assistance to find employment. (paragraph 103).**
- **GRETA urges the authorities of Bosnia and Herzegovina to make efforts 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, including by continuing to pay attention to children in street situations;**
  - **providing further training to stakeholders (police, prosecutors, NGOs, centres for social welfare, child specialists) and guidance on the identification of child victims of THB, based on an agreed understanding of the concepts of trafficking for the purpose of forced begging, forced criminality and early, child or forced marriages;**
  - **providing 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. (paragraph 114)**
- **Recalling the recommendations made in its first report, GRETA once again urges the authorities of Bosnia and Herzegovina to adopt measures to facilitate and guarantee access to compensation for victims of THB, in particular by:**
  - **reviewing the criminal and civil procedures regarding compensation from perpetrators with a view to improving their effectiveness;**
  - **ensuring that victims of THB are systematically informed of their right to claim compensation and the procedures to be followed;**
  - **enabling victims of THB to exercise their right to compensation by guaranteeing them effective access to legal aid;**
  - **strengthening the capacity of law practitioners to help victims to claim compensation and incorporating the issue of compensation in the training programmes for members of law enforcement agencies and the judiciary;**

- **setting up a State compensation scheme accessible to victims of THB, regardless of their nationality and immigration status. (paragraph 138)**
- **In order to ensure full compliance with the Convention, GRETA urges the authorities to complement the criminalisation of THB in the Republika Srpska by inserting "servitude" and "other forms of sexual exploitation" into the list of forms of exploitation, adding the means "abuse of power" and complementing the means "giving or receiving money or other benefits" with the term "to achieve the consent of a person having control over another person". (paragraph 154)**

#### Further conclusions

- GRETA considers that, in order to make full use of the potential of the Regional Monitoring Teams, the authorities of Bosnia and Herzegovina should ensure that they receive adequate funding and training, meet regularly and contribute to anti-trafficking efforts by developing their working methods. (paragraph 24)
- GRETA considers that in light of the recent amendments of the legislation relating to THB, the authorities should increase their efforts to provide training to all relevant professionals (in particular police officers, prosecutors, judges, labour inspectors, social workers, medical doctors, child specialists and representatives of self-government). (paragraph 34)
- GRETA welcomes the above-mentioned research activities and considers that the authorities should conduct and support research on THB-related issues as an evidence base for future policy measures. Areas where research is needed in order to shed more light on the extent and nature of the problem of THB include trafficking for the purpose of labour exploitation, trafficking in children, online recruitment of victims, and internal trafficking. (paragraph 40)
- GRETA welcomes the efforts to raise awareness of THB among the general public as well as targeted groups and considers that the authorities of Bosnia and Herzegovina should continue to take measures to prevent THB through information and awareness-raising measures, paying particular attention to the risks of recruitment through the Internet and trafficking for the purpose of labour exploitation, and evaluating the impact of campaigns. (paragraph 46)
- Further, GRETA considers that the authorities of Bosnia and Herzegovina should continue to increase the capacity and training of the labour inspectors in order to ensure that they play an important role in preventing THB for the purpose of labour exploitation, including by paying particular attention to at-risk sectors. (paragraph 52)
- GRETA welcomes the efforts made with respect to online safety of children and invites the authorities of Bosnia and Herzegovina to pursue these efforts and to continue raising awareness of THB through the general education system. (paragraph 65)
- GRETA considers that the authorities of Bosnia and Herzegovina should take vigorous measures to strengthen the prevention of THB through social, economic and other measures for groups vulnerable to THB, including 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 70)

- GRETA encourages Bosnia and Herzegovina to sign and ratify the Council of Europe Convention against Trafficking in Human Organs as this would contribute to the prevention of trafficking for the purpose of organ removal. (paragraph 74)
- GRETA considers that, as part of their training, health-care professionals and other staff involved in organ transplantations should be sensitised to THB for the purpose of organ removal. (paragraph 77)
- GRETA considers that the authorities of Bosnia and Herzegovina should continue and 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 80)
- GRETA considers that the authorities of Bosnia and Herzegovina should step up their efforts to detect potential victims at border crossings, including among asylum seekers. (paragraph 85)
- Further, GRETA invites the Bosnian authorities to consider the creation of a country-wide telephone helpline for victims of THB. (paragraph 96)
- GRETA invites the authorities of Bosnia and Herzegovina 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.<sup>54</sup> (paragraph 107)
- GRETA invites the authorities of Bosnia and Herzegovina to ensure the issuance of appropriate instructions covering the protection of the private life and identity to all victims of trafficking, including domestic victims, in line with Article 11 of the Convention. (paragraph 117)
- GRETA welcomes the introduction of a recovery and reflection period in law. However, GRETA considers that the procedure for granting a recovery and reflection period should be spelled out and the authorities 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. Further, the authorities of Bosnia and Herzegovina should ensure that victims of human trafficking are systematically informed of the recovery and reflection period. (paragraph 124)
- GRETA considers that the authorities of Bosnia and Herzegovina should ensure that all foreign victims of human trafficking are properly informed about their right to receive a renewable residence permit, without prejudice to the right to seek and enjoy asylum. Police officers, prosecutors, officers of the Service for Foreigner's Affairs and social workers should be adequately trained and given clear guidance in this respect. (paragraph 131)
- GRETA considers that the authorities of Bosnia and Herzegovina should take additional steps to:
  - ensure that the return of victims of trafficking is conducted with due regard for their rights, safety and dignity. This includes informing victims about existing programmes, protecting them from re-victimisation and re-trafficking and, in the case of children, fully respecting the principle of the best interests of the child;
  - continue to develop international co-operation in order to ensure proper risk assessment and safe return, as well as effective reintegration of victims of THB;

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<sup>54</sup> [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.

- ensure compliance with the non-refoulement obligation under Article 40, paragraph 4, of the Convention, taking into account the UNHCR's Guidelines on the application of the Refugees Convention to trafficked people and their possible entitlement to asylum when deciding upon applications for asylum of persons who are at risk of being re-trafficked or otherwise persecuted should they be obliged to return to their State of origin or residence. (paragraph 146)
- Further, in order to ensure a consistent application across the country, GRETA invites the authorities of Bosnia and Herzegovina to ensure that the same minimum penalty for the basic offence of THB is set out in all Criminal Codes throughout the country. (paragraph 155)
- GRETA invites the authorities of Bosnia and Herzegovina to keep the application of the provisions criminalising the knowing use of the services of victim of trafficking under review with a view to ensuring that they are effectively applied in practice. (paragraph 158)
- GRETA invites the authorities of Bosnia and Herzegovina to keep the application of the corporate liability provisions in THB cases under review with a view to ensure that they are effectively applied in practice. (paragraph 160)
- GRETA welcomes the adoption of specific legal provisions concerning the non-punishment of victims of trafficking for offences committed as a result of being trafficked in the State CC and the Criminal Codes of the Federation of Bosnia and Herzegovina and the Brčko District, and would like to be kept informed of the adoption of a similar provision in the Republika Srpska. GRETA considers that the authorities of Bosnia and Herzegovina should ensure full compliance with the non-punishment provision by developing guidance for police officers and prosecutors on its implementation. (paragraph 165)
- GRETA considers the authorities of Bosnia and Herzegovina should take further measures to ensure that THB cases are investigated proactively, prosecuted successfully and lead to effective, proportionate and dissuasive sanctions, including by:
  - sensitising prosecutors and judges to the rights of victims of THB and encouraging them to develop a specialisation to deal with THB cases;
  - intensifying their efforts to identify, seize and confiscate criminal assets generated by trafficking offences;
  - excluding THB from the plea bargaining procedure. (paragraph 179)
- GRETA considers that the authorities of Bosnia and Herzegovina should ensure that, in practice, full use is made of the available measures to protect victims and witnesses of THB and to prevent their intimidation during the investigation and during the court proceedings, including the special protection measures existing for children, in accordance with the best interests of the child. (paragraph 186)
- GRETA also considers that the authorities of Bosnia and Herzegovina should ensure, if necessary by amending existing legislation, that all child victims of trafficking may benefit from protection measures, independently of their age and the form of exploitation they were subjected to. (paragraph 187)
- GRETA considers that the authorities of Bosnia and Herzegovina should continue their efforts in the area of international co-operation with a view to preventing human trafficking, assisting victims of trafficking, and investigating and prosecuting human trafficking offences, including with respect to missing children. (paragraph 196)

- GRETA welcomes the co-operation established between the authorities and NGOs and invites the authorities of Bosnia and Herzegovina to continue their efforts to build strategic partnerships with civil society and to develop co-operation with trade unions and the private sector. (paragraph 199)

## **Appendix**

### **List of public bodies, intergovernmental organisations and non-governmental organisations with which GRETA held consultations**

#### **Public bodies**

##### *Bosnia and Herzegovina*

- National Co-ordinator for Combating Trafficking in Human Beings
- Ministry of Security
- Ministry of Justice
- Ministry of Human Rights and Refugees
- Office of the Ombudsman of Bosnia and Herzegovina
- Court of Bosnia and Herzegovina
- Prosecutor's Office
- State Investigation and Protection Agency (SIPA)
- Border Police

##### *Republika Srpska*

- Ministry of the Interior
- Ministry of Justice
- Ministry of Labour and Veterans
- Ministry of Health and Social Welfare
- Ministry of Family, Youth and Sports
- Ministry of Education and Culture
- Court of the Republika Srpska
- Prosecutor's Office
- Regional Monitoring Team in Banja Luka
- Labour Inspection

##### *Federation of Bosnia and Herzegovina*

- Ministry of the Interior
- Ministry of Justice
- Ministry of Education and Science
- Ministry of Health
- Ministry of Labour and Social Policy
- Ministry of Displaced Persons and Refugees
- Supreme Court of the Federation
- Prosecutor's Office
- Regional Monitoring Team in Sarajevo

##### *Brčko District*

- Police of Brčko District
- Department of Education
- Subdivision for Social Protection
- Prosecutor's Office of Brčko District
- Judicial Commission

**Intergovernmental organisations**

- International Centre for Migration Policy Development (ICMPD)
- International Organization for Migration (IOM)
- Organization for Security and Co-operation in Europe (OSCE)
- United Nations Children's Fund (UNICEF)
- United Nations High Commissioner for Refugees (UNHCR)

**Non-governmental organisations**

- Foundation Lara
- ISF Emmaus
- Nova Generacija
- Save the Children
- Vaša prava
- Zemlja Djece



## **Government's Comments**

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

The Convention requires that "the report and conclusions of GRETA shall be made public as from their adoption, together with eventual comments by the Party concerned." GRETA transmitted its final report to the authorities on 22 May 2017 and invited them to submit any final comments. By letter of 4 July 2017 (reproduced hereafter), the authorities indicated that they do not see the need to submit any comments to the final GRETA report.

Bosna i Hercegovina  
Ministarstvo sigurnosti



Bosnia and Herzegovina  
Ministry of Security

Ref: 05-14-1-5086/17  
Sarajevo, 04 July 2017

**Petya Nestorova**  
**Executive Secretary of the Council of Europe Convention**  
**on Action against Trafficking in Human Beings**  
**Directorate of Human Dignity and Equality**  
**Council of Europe**

**Subject: Final report from GRETA**

Dear Ms Nestorova,

We acknowledge receipt of the report from GRETA concerning the implementation of the Council of Europe convention on Action against Trafficking in Human Beings by Bosnia and Herzegovina.

We would like to express our strong appreciation of the work carried out by GRETA in the process leading up to the final report. The evaluation process has been a positive contribution to our efforts to improve response to the challenges of trafficking in human beings. Discussion with GRETA has influenced our plans for future actions.

We have no need to give any further comments to the report.

Yours sincerely,

Samir Rizvo

Contact person

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Sarajevo, Trg BiH 1; Tel: 033 213 623; Fax: 033 213 686  
Сарајево, Трг БиХ 1; Тел: 033 213 623 ; Факс: 033 213 686