



GRETA

Group of Experts on Action
against Trafficking in Human Beings

GRETA(2011)9

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

First evaluation round

Strasbourg, 19 September 2011

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

trafficking@coe.int

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

Table of contents

Preamble	4
Executive summary	6
I. Introduction	8
II. National framework in the field of action against trafficking in human beings in the Slovak Republic	9
1. Overview of the current situation in the area of trafficking in human beings	9
2. Overview of the legal and policy framework in the field of action against trafficking in human beings	9
a. National legislation	9
b. International multilateral and bilateral agreements	9
c. National Programme to Combat Trafficking in Human Beings	10
3. Overview of the institutional framework in the field of action against trafficking in human beings	10
a. Governmental bodies	10
b. Non-governmental organisations and civil society	12
III. Implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Slovak Republic	13
1. Integration of the core concepts and definitions contained in the Convention in the internal law	13
a. Human rights-based approach to action against trafficking in human beings	13
b. Definitions of “trafficking in human beings” and “victim of THB” in Slovak law	14
<i>i. Definition of “trafficking in human beings”</i>	14
<i>ii. Definition of “victim of THB”</i>	15
c. Comprehensive approach to THB, co-ordination of all actors and actions and international co-operation	16
2. Implementation by the Slovak Republic of measures aimed to prevent trafficking in human beings	18
a. Information and awareness raising	18
b. Data collection and research	19
c. Economic empowerment measures for disadvantaged groups	20
d. Measures to discourage demand	20
e. Border measures	21
f. Information concerning legal entry and stay	22
3. Implementation of measures to protect and promote the rights of victims of trafficking in human beings	22
a. Identification of victims of THB	22
b. Status and rights of a victim of THB	24
c. Assistance and protection measures for victims of THB	25
d. Recovery and reflection period	27
e. Residence permits	28
f. Compensation	29
g. Repatriation and return of victims of THB	30
4. Implementation of measures concerning substantive criminal law, investigation prosecution and procedural law	31
a. Substantive criminal law	31
b. Non-punishment of victims of THB	33
c. Investigation, prosecution and procedural law	33
5. Concluding remarks	35
Appendix I: List of GRETA’s proposals	36
Appendix II: List of the public authorities, NGOs and international organisations with which GRETA held consultations	40
Government’s comments	41

Preamble

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Executive summary

Since the ratification of the Council of Europe Anti-Trafficking Convention, the Slovak authorities have taken considerable measures to combat trafficking in human beings (THB). An Expert Group for the Area of the Fight against Trafficking in Human Beings has been set up since 2006 under the Ministry of the Interior. A multidisciplinary entity, this group is chaired by the National Co-ordinator for Combating Trafficking in Human Beings and includes representatives of all relevant national actors and NGOs. Three National Action Plans have been adopted since 2006. Further, legislative provisions concerning THB have been introduced in the Criminal Code, and the Ministry of the Interior has adopted regulations concerning the provision of protection and assistance to victims of trafficking.

That said, GRETA considers that the Slovak authorities should review the national legislation with a view to ensuring that all aspects of action against THB, including the key definitions and measures established by the Convention, are reflected in a comprehensive manner. The institutional framework for action against THB should be further developed in order to achieve a more active and effective involvement of all relevant actors. In this context, the Expert Group should be given a greater authority and resources to implement the decisions falling within its competence.

A series of measures designed to raise awareness on THB and to train relevant professionals have been taken by the Slovak authorities in co-operation with NGOs and international organisations. However, GRETA considers that information and awareness raising should be targeted at specific groups vulnerable to THB identified through prior research. Furthermore, economic and social measures based on the identified structural causes of THB (poverty, inadequate education, absence of employment opportunities, etc.) should be taken by the authorities. Measures to discourage demand for services of victims of THB should also be implemented without delay. GRETA urges the Slovak authorities to introduce a comprehensive and coherent data collection mechanism that would make it possible to share information among the main actors as well as identify the most appropriate measures to be taken with regard to groups affected by THB and forms of trafficking.

All victims of THB identified in 2008 and 2009 have been Slovak nationals, the majority of them being subjected to transnational trafficking. GRETA considers that the Slovak authorities should improve the identification of victims of THB by setting up a coherent national mechanism for this purpose. As regards in particular child victims of trafficking, the procedures relating to their identification should be streamlined, including any possible role of the authorities responsible for child protection. Further, a proactive approach should be adopted to the identification of victims of trafficking for the purpose of labour exploitation by stepping up visits by labour inspectors and the Police to work sites. The Slovak authorities should also take steps to secure the identification of victims of THB among foreigners held in detention centres prior to their deportation.

As regards measures to assist and protect victims of THB, the Slovak authorities have introduced a Programme of Support and Protection of Victims of Trafficking in Human Beings which envisages a series of measures for both Slovak and foreign victims (including anonymous accommodation, emergency care and a 90-day recovery period for foreign nationals). However, GRETA considers that the Slovak authorities should take further steps to monitor the effectiveness and quality of the assistance and protection measures, including the reintegration of victims of THB into society to avoid their re-trafficking. In this context, GRETA urges the Slovak authorities to take legislative and practical measures to introduce a recovery and reflection period for victims of THB as provided for in the Convention. Furthermore, the authorities should take legislative and practical measures to ensure that compensation is made available to all victims of THB, irrespective of their nationality and residence status.

The criminal law definition of the offence of THB contains all three constituent elements of THB as defined by the Convention. However, GRETA urges the Slovak authorities to review the legislation in order to fully reflect the substantive provisions of the Convention as regards the establishment of criminal offences for conducts related to travel and identity documents and the possibility of not imposing penalties on victims of THB who have been compelled to be involved in unlawful activities. Further, GRETA considers that the Slovak authorities should adopt measures to protect victims of THB and witnesses.

GRETA notes that, at present, action against THB seems to be carried out predominantly from a criminal law and immigration law perspective. GRETA considers that the Slovak authorities should take further steps to ensure that the human-rights based and victim-centred approach that underpins the Council of Europe Anti-Trafficking Convention is fully reflected in the anti-trafficking framework of the Slovak Republic. This should include further measures to empower victims by enhancing their rights to adequate protection, assistance and redress, and to continuously inform law enforcement officials, prosecutors, judges, social workers and other relevant professionals about the need to apply a human rights-based approach to action against THB.

Finally, GRETA invites the Slovak authorities to explore further possibilities for international co-operation with other Parties for the purpose of achieving the objectives of the Council of Europe Anti-Trafficking Convention in preventing THB, protecting and assisting its victims and prosecuting and punishing traffickers.

I. Introduction

1. The Slovak Republic ratified the Council of Europe Convention on Action against Trafficking in Human Beings (“the Convention”) on 27 March 2007. The Convention entered into force on 1 February 2008, following its 10th ratification.

2. As established in Article 36(1) of the Convention, the Group of Experts on Action against Trafficking in Human Beings (“GRETA”) monitors the implementation of the Convention by the Parties. GRETA does so in conformity with the procedure laid down in Article 38 of the Convention and the Rules on the evaluation procedure of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Parties. For the first evaluation round, GRETA drew up a monitoring timetable according to which the Parties to the Convention were divided into groups, the Slovak Republic being in the first group of 10 to be evaluated in 2010-2011.

3. In accordance with Article 38 of the Convention, GRETA proceeded with the examination of the measures taken by the Slovak Republic to implement the provisions set out in the Convention. The “Questionnaire for the evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Parties – first evaluation round” was sent to the Slovak Republic on 10 February 2010. The deadline for submitting the reply to the questionnaire was 1 September 2010. The Slovak authorities submitted their reply on 31 August 2010¹.

4. In preparation of the present report, GRETA used the reply to the questionnaire by the Slovak Republic, other information collected by GRETA and information received from civil society. A country visit to the Slovak Republic took place on 9-12 November 2010. It was carried out by a delegation composed of:

- Ms Gulnara Shahinian, Second Vice-President of GRETA (at the time of the visit)
- Mr Davor Derencinovic, member of GRETA
- Mr David Dolidze, Administrator at the Secretariat of the Convention.

5. During the country visit, the GRETA delegation held meetings with representatives of relevant ministries and other public bodies (see Appendix II). These meetings took place in a spirit of close co-operation. GRETA wishes to place on record the valuable assistance provided by the contact person appointed by the Slovak authorities, Mr Jozef Hlinka, Director General of the Office of the Minister of the Interior of the Slovak Republic and Ms Maria Fejes of the Department of Parliamentary, Governmental Agenda and Advisory Activities of the Office of the Minister of the Interior.

6. The GRETA delegation held separate meetings with representatives of the non-governmental organisations (NGOs) active in the field of action against trafficking in human beings (hereinafter “THB”). GRETA is grateful for the valuable information provided by these NGOs.

7. The GRETA delegation also visited a Government-run residential area for asylum seekers and an NGO-run shelter for victims of domestic violence and child victims of THB.

8. The draft report was approved by GRETA at its 9th meeting (15-18 March 2011) and was submitted to the Slovak authorities on 12 April 2011 for comments. The authorities’ comments were received on 23 May 2011 and were taken into account when drawing up the final GRETA report, which was adopted by GRETA at its 10th meeting (21-24 June 2011).

¹ In accordance with Rule 5 of the Rules on the Evaluation Procedure, the replies to the questionnaire are to be treated as confidential unless a Party requests publication.

II. National framework in the field of action against trafficking in human beings in the Slovak Republic

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

9. As indicated by the Slovak authorities, the Slovak Republic is predominantly a country of origin of victims of THB. According to statistical information provided by the Slovak authorities, all victims of THB identified in 2008 and 2009 (57 and 41 respectively) were Slovak nationals. The majority of them were subject to transnational THB. The number of identified child victims of THB has been low (two in 2008, one in 2009). The main type of exploitation to which victims of THB have been subjected was sexual exploitation. However, some instances of forced labour, slavery and forced begging have also occurred.

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

a. National legislation

10. There is no single law in the Slovak Republic which deals specifically with THB and all its aspects (prevention, protection of victims and prosecution of traffickers). The most important legislative provisions concerning THB are contained in Articles 179 to 181 of the Criminal Code (hereinafter "CC"). Other legal acts which are relevant to certain aspects of action against THB regulate areas such as the residence of foreigners, the accession to the Schengen area and its consequences, the provision of social services, socio-legal protection of children and social guardianship.

11. In addition, normative acts issued by the Ministry of the Interior govern the composition and functioning of the national co-ordinating body against THB² and the provision of assistance to victims of THB³.

b. International multilateral and bilateral agreements

12. Apart from the Council of Europe Anti-Trafficking Convention, the Slovak Republic has acceded to most of the international treaties relevant to action against THB (in particular, the UN Convention against Transnational Organised Crime and its Protocols). The Slovak Republic is also Party to a number of the Council of Europe Conventions concerning co-operation in criminal matters, in particular the European Convention on Mutual Assistance in Criminal Matters (CETS No. 030) and its Additional Protocols (CETS No. 099 and CETS No. 182), the Convention on Cybercrime (CETS No. 185).

² Order No. 22 of the Minister of the Interior (30 June 2008) establishing an Expert group for the area of the fight against trafficking in human beings, as amended by Order No. 50/2011 of the Minister of the Interior (1 April 2011) and Order No. 51 of the State Secretary of the Ministry of the Interior (30 March 2011) on the establishment of multi-disciplinary working groups aimed for the field of trafficking in human beings.

³ Regulation No. 47 of the Minister of the Interior (30 June 2008) on Ensuring the Support and Protection of Victims of Trafficking in Human Beings, as amended by Regulation No. 170/2010.

13. As of 1 May 2004, the Slovak Republic is a European Union (EU) member state and is therefore bound by the relevant EU legislation in the field of combating THB, in particular:

- Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and its victims (replacing Council Framework Decision 2002/629/JHA);
- Council Directive 2004/80/EC of 29 April 2004 on compensation to crime victims with the objective of allowing the submission of the application in a member state other than the state of permanent residence of the applicant;
- Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who co-operate with the competent authorities.

14. Further, the Slovak Republic has concluded co-operation agreements in the criminal field (including on Police co-operation) with a significant number of countries which, from an anti-trafficking perspective, include countries of origin, transit and destination of victims of THB.

c. National Programme to Combat Trafficking in Human Beings

15. The first National Action Plan to Combat Trafficking in Human Beings was adopted by Government Resolution No. 3/2006 and was implemented in 2006-2007. Based on the experience gathered from its implementation, a National Programme was drawn up for the period 2008-2010 and was approved by Government Resolution No. 251 of 23 April 2008. This National Programme consisted of four chapters (prevention of THB; support and protection of victims; detection and prosecution of the crime of THB; supporting framework/co-ordination structures) and set out strategic and operational objectives in each area.

16. At the time of GRETA's country visit to the Slovak Republic, the National Programme for 2008-2010 was undergoing an evaluation with a view to preparing a proposal for its update for the subsequent period. The new National Programme for 2011-2014 was adopted by the Slovak Government on 16 February 2011.

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

a. Governmental bodies

17. The main responsibility for implementing the anti-trafficking legislation and policy is assigned to the Ministry of the Interior. Other Government bodies involved in anti-trafficking activities are the Ministry of Justice, Ministry of Foreign Affairs, Ministry of Labour, Social Affairs and Family, Ministry of Education, Science, Research and Sport, Ministry of Health, General Prosecutor's Office, Office of the Plenipotentiary of the Slovak Government for Roma Communities and the Government Office.

18. Action against THB is one of the tasks of the Department of Parliamentary, Governmental Agenda and Advisory Activities of the Office of the Minister of the Interior. This Department is responsible *inter alia* for drafting the National Programme to Combat Trafficking in Human Beings, providing training to professionals involved in the implementation of the National Programme to Combat Trafficking in Human Beings, organising meetings of the Expert Group for the Area of the Fight against Trafficking in Human Beings (hereinafter "the Expert Group"), and implementing the Programme of Support and Protection of Victims of Trafficking in Human Beings.

19. The Expert Group is a multidisciplinary entity established by Order No. 22 of 30 June 2008 of the Minister of the Interior (as amended by the Order No. 50/2011 of 1 April 2011). It is chaired by the National Co-ordinator for Combating Trafficking in Human Beings, who is the State Secretary of the Ministry of the Interior. The Expert Group is composed of representatives of the following bodies:

- units of the Ministry of the Interior;
- the Ministry of Finance;
- the Ministry of Justice;
- the Ministry of Labour, Social Affairs and Family;
- the Ministry of Health;
- the Ministry of Foreign Affairs;
- the Ministry of Education;
- the Office of the Government of the Slovak Republic;
- the Office of the Plenipotentiary of the Government for Roma Communities;
- the General Prosecutor's Office;
- the Association of Towns and Communities of Slovakia;
- the International Organisation for Migration (IOM);
- NGOs (including DOTYK – Slovak Crisis Centre, Catholic Charity Caritas, Civic Association Náruč, etc.).

20. In 2008, two multi-disciplinary working groups were created within the Expert Group, dealing respectively with prevention of THB and provision of assistance to victims of THB. These working groups meet on an *ad hoc* basis.

21. The main task of the Expert Group is the implementation of the National Programme to Combat Trafficking in Human Beings. The secretariat of the Expert Group and the National Co-ordinator for Combating Trafficking in Human Beings is provided by the three employees of the Department of Parliamentary, Governmental Agenda and Advisory Activities. The Slovak authorities have indicated that the secretariat of the Expert Group and the National Co-ordinator will be enlarged by adding three employees of the Information Centre for Combating Trafficking in Human Beings and Crime Prevention in Košice, which is a structural unit of the Office of the Minister of the Interior. The funds necessary for the operation of the Expert Group are allocated within the general budget of the Ministry of the Interior.

22. The Expert Group should meet at least once a year and its members may request additional meetings if necessary (the Expert Group reportedly met only once a year in 2008, 2009 and 2010). The evaluation of the work of the Expert Group is carried out on a biennial basis by the Government.

23. Within the Police, issues relating to combating THB as one of the forms of organised crime are dealt with by the Division on Trafficking in Human Beings of the Office for Combating Organised Crime of the Presidium of the Police Force, which is a structural part of the Ministry of the Interior. This division is in charge of operational and investigative measures to detect and disclose crimes involving proxenetism ("pimping"), THB (including in children), child pornography and related crimes. According to information provided by the Slovak authorities, as of 1 April 2011, two departments have been created within the Division of Trafficking in Human Beings: Operative Department and Department of Analytics and International Cooperation. The Division currently employs 17 staff members. Two employees specifically dealing with combating THB have been assigned to each of the three Regional Units of the Office for Combating Organized Crime (East, Central and West). Their tasks include operative-investigative activities to detect THB as an offence committed by organised criminal groups, co-operation with other units of the Criminal Police, methodological assistance and co-ordination of contact persons, and transmission of information relating to THB.

24. According to a recently issued Order of the President of the Police Force on the procedure for the criminal Police in the field of THB (in force as of 1 July 2011) combating THB at the local and regional levels is assigned to regional and district headquarters of the criminal Police of the Presidium of the Police Corps. The activities of these headquarters are co-ordinated by the Division of Trafficking in Human Beings at the Police Corps, which has national competence. Its task is to detect THB as a criminal offence for the purpose of sexual exploitation, forced labour or services, slavery, serfdom or taking in organs, as well as other crimes such as production of child pornography, especially when committed by organised criminal groups.

25. As regards the collection of anti-trafficking data, this task has been assigned to the Information Centre for the Fight against Trafficking in Human Beings and Crime Prevention which was set up at the Ministry of the Interior in the beginning of 2010. However, at the time of GRETA's country visit, the Information Centre had not yet started collected THB data. THB related data was being collected separately by the Ministry of Justice, the Ministry of the Interior and the General Prosecutor's Office.

b. Non-governmental organisations and civil society

26. A number of Slovak NGOs are working in the field of action against THB: DOTYK – Slovak Crisis Centre is focussing on providing accommodation and assistance to victims of trafficking. The Civic Association Náruč runs a crisis centre, providing shelter and protection to adult and child victims of domestic violence as well as child victims of abuse, including child victims of trafficking. The Children's Home in Topolčany has recently been designated to provide accommodation and care to child victims of THB during their re-integration. Further, the Slovak Catholic Charity Caritas has programmes aiming to assist victims of trafficking. These and other NGOs co-operate with the Ministry of the Interior and some of them are represented in the above-mentioned Expert Group (see paragraph 19).

27. Further, the Office of the IOM in Slovakia actively participates in anti-trafficking activities, in particular by facilitating the return of Slovak victims of THB from abroad and providing them with assistance measures on the basis of a contract with the Ministry of the Interior.

III. Implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Slovak Republic

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

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

28. Article 1(1)(b) of the Convention establishes as one of its purposes the protection of the human rights of the victims of trafficking. Further, Article 5(3) includes the obligation for Parties to promote a human rights-based approach in the development, implementation and assessment of the policies and programmes to prevent THB. The Explanatory Report of the Convention states that the main added value of the Convention is its human rights perspective and its focus on victim protection. In the same vein, the United Nations Recommended Principles and Guidelines on Human Rights and Human Trafficking emphasise that “the human rights of trafficked persons shall be at the centre of all efforts to prevent and combat trafficking and to protect, assist and provide redress to victims”⁴.

29. THB constitutes an offence to the dignity and fundamental freedoms of the human being and thus a grave violation of human rights. GRETA emphasises the obligations of states to respect, fulfil and protect human rights, including by ensuring compliance by non-state actors, in accordance with the duty of due diligence. The human rights-based approach entails that a state that fails to fulfil these obligations may, for instance, be held accountable for violations of the European Convention on Human Rights (in case the state concerned is a Party to it). This has been confirmed by the European Court of Human Rights in its judgment in the case of *Rantsev v. Cyprus and Russia*, where the Court concluded that THB “within the meaning of Article 3(a) of the Palermo Protocol and Article 4(a) of the Anti-Trafficking Convention, falls within the scope of Article 4 of the European Convention on Human Rights”⁵ (which prohibits slavery, servitude and forced or compulsory labour). The Court further concluded that Article 4 entails a positive obligation to protect victims, or potential victims, as well as a procedural obligation to investigate trafficking.

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

31. GRETA wishes to stress the need for states to also address THB as a form of violence against women and to take account of gender-specific types of exploitation, as well as the particular situation of child victims of THB, in line with the relevant international legal instruments⁶.

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

⁵ *Rantsev v. Cyprus and Russia*, no. 25965/04, paragraph 282, ECHR 2010.

⁶ Such as the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, the United Nations Convention on the Rights of the Child and the Optional Protocol thereto on the sale of children, child prostitution and child pornography, and the United Nations Convention on the Elimination of All Forms of Discrimination against Women.

32. According to information provided by the Slovak authorities, trafficking in human beings is considered as a violation of human rights and is criminalised by the provisions of Articles 179 to 181 of the CC, which are included in the chapter entitled “Crimes against freedom and human dignity”. Further, Article 18(1) of the Slovak Constitution prohibits forced labour and services, and Article 19(1) declares that everyone has the right to maintain and protect his/her dignity. According to the authorities, the Slovak legal system provides for a broad coverage of human rights protection for victims of THB (at the criminal level, compensation of victims, assistance to victims regardless of whether they testify in criminal proceedings, repatriation assistance, etc.).

33. The co-ordination of activities in the field of human rights is carried out by the Government Council for Human Rights, National Minorities and Gender Equality, which is a permanent consultative body of the Government, and has the task of providing opinions on the implementation of international commitments of the Slovak Republic in the field of human rights. To GRETA’s knowledge, action against THB is not included in the competences of this Council.

34. The human rights-based approach to THB entails accountability on the part of the state through the adoption of a national policy and action plans for combating trafficking in human beings, the co-ordination of the efforts of all relevant actors, the systematic training of relevant professionals, further research and data collection, and the provision of adequate funding for the implementation of all these measures. The following sections of this report examine in detail the effectiveness of the policies and measures taken by the Slovak authorities in these fields.

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

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

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

36. In Slovak law, the definition of THB is provided in Article 179 of the CC (“trafficking in human beings”) which states: “(1) He/she who by means of deception, deceit, restriction of personal freedom (limitation of personal liberty), violence, threats of violence, threat of another severe injury or other forms of coercion, adoption or provision of money or other benefits to achieve the consent of the person on which the other person is dependent, or abuse of his/her position or abuse of the vulnerability, or otherwise vulnerable position deceives, transports, keeps, gives, or takes another, even with his/her consent, for the purpose of prostitution or other forms of sexual exploitation, including pornography, forced labour or forced services, slavery or practices similar to slavery, servitude, removal of organs, tissues or cells, or other forms of exploitation, will be punished by imprisonment for four to 10 years. (2) As in paragraph 1, he/she shall be punished who deceives, transports, keeps, gives or takes any person under 18 years, even with his/her consent, for the purpose of prostitution or other forms of sexual exploitation, including pornography, forced labour or forced services, slavery or practices similar to slavery, servitude, removal of organs, tissues or cells, or other forms of exploitation.”⁷

⁷ Unofficial translation provided by the Slovak authorities.

37. The above-mentioned definition of THB contains all three constituent elements of THB as defined by the Convention. Further, as specified by the Slovak Government, all forms of THB (national and transnational, linked to organised crime or not) are covered by the provisions of the CC. The Slovak authorities have indicated that the verb “lure” is a synonym of “recruit”. Further, according to the authorities, “deception” has the same meaning as “fraud”, and “abduction” is understood to be included in the broader expression “limitation of personal freedom”. The Slovak authorities have therefore confirmed that all the means mentioned in paragraph 35 are reflected in the definition under Article 179 of the CC.

38. As regards trafficking in children, the definition of trafficking contains only two of the above elements, i.e. the action and the purpose of exploitation, irrespective of the means used. This is also in line with the definition contained in the Convention.

39. In addition to Article 179(2) of the CC, trafficking in children is governed by the provisions of Articles 180 and 181 (“trafficking in children”) of the CC. More specifically, Article 180 defines “placing a child under the control of another for the purpose of adoption in breach of general rules” as one of the forms of THB. GRETA would like to draw the attention to paragraph 94 of the Explanatory Report of the Convention, which states that “the definition of trafficking in human beings does not refer to illegal adoption as such. Nevertheless, where an illegal adoption amounts to a practice similar to slavery as defined in Article 1(d) of the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices similar to Slavery, it will also fall within the Convention’s scope”.

40. Finally, Article 181(1) of the CC states that “anyone who, in return of a reward, refers a child in the charge of another person for the purpose of its use for child labour or for other purpose shall be sentenced to four to 10 years of imprisonment”. According to the Slovak authorities, this provision stems from the International Convention on the Rights of the Child and concerns only parents or legal guardian of a child, thus having a narrower scope than 179(2) of the CC. The Ministry of Justice intends to perform an analysis of all criminal provisions relating to THB with a view to identifying duplications and ambiguities in the interpretation of the definition of THB as a criminal offence. **GRETA would like to be informed of the outcome of this analysis.**

41. For further analysis of Articles 179 to 181 of the CC from a substantive criminal law perspective, see paragraphs 127 to 139 of this report.

ii. Definition of “victim of THB”

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

43. According to the Slovak authorities, the status of a “victim of THB” is not defined by law. The only relevant definition is contained in Regulation No. 47 of 30 June 2008 of the Minister of the Interior on Ensuring the Support and Protection of Victims of Trafficking in Human Beings, according to which a victim of THB is:

- a citizen of the Slovak Republic, if there are reasonable grounds to believe that he/she was subjected to THB on the territory of the Slovak Republic or abroad;
- a foreign national or a stateless person, if there are reasonable grounds to believe that he/she was subjected to THB on the territory of the Slovak Republic or abroad.

44. The Slovak authorities have indicated that the question of the person's consent to intended or actual exploitation is irrelevant when it comes to recognising the person as a victim of THB. This is borne out by the text of Article 179(1) of the CC (see paragraph 36). The status of a victim of THB under the above-mentioned Regulation is given to any person who accepts to be included in the Programme of Support and Protection of Victims of Trafficking in Human Beings, implemented by the Ministry of the Interior in co-operation with NGOs on the basis of specific contracts. The question of the definition of victim of THB will be further discussed in the sections of this report dealing with the identification of victims of THB and assistance measures, along with the related proposals made by GRETA.

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

45. One of the aims of the Convention is to design a comprehensive framework for the protection and assistance of victims and witnesses (Article 1(1)(b)). This comprehensive national action may be co-ordinated through a specific governmental body or entity. The Explanatory Report on the Convention adds that a multidisciplinary approach is necessary to combat THB effectively at the national level.

46. The Slovak Republic has amended a number of laws with a view to improving its anti-trafficking capacities and implementing its legal obligations stemming from various international legal instruments, which are listed in the National Programme to Combat Trafficking in Human Beings. During the period 2006-2010, the Slovak Government developed a set of policy guidelines aimed at enabling it to combat THB in a comprehensive and co-ordinated manner. The main responsibility for implementing the legislation and policy in the area of combating THB has been assigned to the Department of Parliamentary, Governmental Agenda and Advisory Activities of the Office of the Minister of the Interior and the Expert Group referred to in paragraph 18.

47. GRETA welcomes the fact that the composition of the Expert Group is multidisciplinary, including representatives of public bodies responsible for various areas relating to combating THB (see paragraph 19). GRETA also notes with satisfaction that a number of NGOs active in combating THB are represented in the Expert Group. However, despite the existence of criteria for the participation of NGOs in the work of the Expert Group, their roles and responsibilities within the Group, as well as the actual selection procedure, are not clear.

48. Taking into account the dynamic and complex nature of THB, GRETA considers that it would be difficult for the Expert Group to effectively carry out its tasks and fully benefit from its multidisciplinary composition if it meets only once a year (see paragraph 22). In addition, the roles and tasks of the members of the Expert Group and of the bodies they represent are not clearly defined. GRETA is therefore concerned that the organisational and administrative arrangements for the functioning of the Expert Group prevent from the full application of the comprehensive approach to THB in practice. Even though the National Programme to Combat Trafficking in Human Beings is adopted by the Government and is considered binding for all public bodies involved, the accountability of these bodies to the Expert Group when implementing their specific anti-THB tasks is not evident. In order to develop an effective co-ordination and implement a human rights-based approach to THB, all public bodies represented at the Expert Group should increase their involvement in its work and enhance their contribution in the field of action against THB.

49. As regards international co-operation, the Council of Europe Anti-Trafficking Convention requires Parties to co-operate with each other to the widest extent possible in order to prevent and combat THB, protect and assist victims, and investigate related criminal offences (Article 32).

50. As already mentioned in paragraphs 12 and 14, the Slovak Republic has acceded to a number of international treaties concerning co-operation and mutual assistance in the criminal field and has concluded bilateral co-operation agreements in this field with a number of countries. On the basis of these agreements, the Slovak law enforcement agencies have carried out joint actions aiming at prosecuting criminal groups engaged in transnational THB. To mention a few examples, joint operations were conducted in 2008 and 2009 with the law enforcement agencies of France, Slovenia and the United Kingdom. These operations led to the dismantling of organised criminal groups engaged in trafficking of women for the purpose of sexual exploitation.

51. As regards international co-operation on action against THB outside the criminal field, representatives of public authorities participate in international events such as conferences and other activities. In addition, at the end of 2010, the Slovak Republic became partner of a regional initiative entitled "Austria and neighbouring countries – prevention and suppression of all forms of trafficking in women: development of transnational co-ordination and co-operation; development and strengthening of networks and partnerships with third countries". This initiative aims at the implementation of regional measures to combat THB in key areas, such as exchange of information and knowledge, early warning of THB cases, identification of victims and partnerships in prevent THB.

52. **In the light of the above, GRETA urges the Slovak authorities to:**

- **review the national legislation with a view to ensuring that all aspects of action against THB, including the key definitions and measures established by the Convention, are included in a comprehensive manner;**
- **develop the institutional framework for action against THB in order to achieve a more active and effective involvement of all governmental bodies with responsibilities relevant to prevention of THB and protecting the rights of victims;**
- **review the organisational and administrative arrangements for the functioning of the Expert Group for the Area of the Fight against Trafficking in Human Beings with a view to ensuring that it has:**
 - **sufficient authority to implement the decisions falling within its competence;**
 - **the necessary financial and human resources to ensure its effective functioning, including co-ordination of all national actors and actions in the field of THB.**

53. Furthermore, GRETA considers that the selection procedure of NGOs for membership in the Expert Group should be more transparent and should include, at a minimum, information about the indicators for evaluating NGO's experience in the field of action against THB, as well as about the roles and responsibilities of the NGOs within the Expert Group. All interested NGOs should have the possibility to apply for membership in the Expert Group, provided they meet the established criteria.

54. GRETA also invites the Slovak authorities to explore further possibilities for international co-operation in the field of prevention of THB, and the provision of protection and assistance to its victims.

2. Implementation by the Slovak Republic of measures aimed to prevent trafficking in human beings

55. According to the Convention, Parties must take measures to prevent THB, with the involvement of relevant NGOs, other organisations and members of civil society as appropriate (Article 5(2) and 5(6)). The Convention establishes that Parties must take measures to discourage demand, strengthen border controls and ensure the integrity and security of travel or identity documents (Articles 6 to 8). It is of utmost importance that all countries design and implement measures to prevent THB, which should be adapted to their specific THB situation.

a. Information and awareness raising

56. As part of prevention measures, the HELP campaign was organised in the course of 2009 by the Ministry of the Interior in co-operation with the IOM Bratislava. The main objective of this campaign was to inform the general public about THB and the existence of a national toll-free helpline for victims of THB (by means of TV spots, TV shows, a dedicated website, posting of banners, distributing posters in refugee camps, embassies of the Slovak Republic abroad, etc.). At the time of GRETA's country visit, the HELP campaign was undergoing evaluation. According to the Slovak authorities, the national telephone helpline for victims of THB has led to an increased number of identified victims of THB: 11 victims were identified in 2010 and four in the first four months of 2011.

57. The Ministry of the Interior has received a grant from the European Commission to implement the project „Prevention and extended harmonized system of data collection on THB“, which is presented in greater detail in paragraph 60. As a follow-up to the HELP campaign, one of the components of this project is developing a concept of communication campaign with the aim to increasing awareness about THB among the general public, and focussing on new forms of THB such as labour exploitation. Under this project, it is planned to prepare new materials to be distributed by means of television, the internet and printed media to promote the toll-free national helpline and to inform the public about the risks relating to employment abroad and other aspects of THB.

58. Apart from the HELP campaign, the Slovak authorities have referred to preventive work in schools carried out by Police officers and preventive activities implemented in marginalised communities and groups dependent on social benefits by Police officers in charge of work with such communities. Further, the Information Centre for Combating Trafficking in Human Beings and Crime Prevention in Košice has organised lectures on prevention of THB for some 570 students at secondary schools in Košice region in 2010, and about 750 students of secondary schools in the Prešov Region in 2011. It is noteworthy that some 73% of THB victims included in the programme for support and protection in 2010 were from these two regions.

59. While GRETA welcomes the efforts of the Slovak authorities to prevent THB, it considers that the Slovak authorities should continue to devise and implement information and awareness-raising campaigns aimed at preventing THB, which are targeted at specific groups vulnerable to THB identified through prior research. It is important that the measures go beyond the “criminal law” understanding of prevention of THB and aim at creating sufficient awareness among people enabling them to make well-informed decisions concerning employment or migration offers. The authorities should also ensure that necessary funding is available for the implementation of information and awareness-raising campaigns.

b. Data collection and research

60. As mentioned in paragraph 25, the Information Centre for the Fight against Trafficking in Human Beings and Crime Prevention has the task of collecting THB related data. As far as GRETA understands, no such data has been collected. GRETA was informed of a project "Strengthening of preventive measures in the fight against trafficking in human beings in Slovakia" which was developed and submitted for funding to the European Commission by the Ministry of the Interior in June 2009. This project was supposed to include research on public awareness concerning THB, but was not carried out as no funding was granted. The Ministry of the Interior re-applied for funding of a similar project entitled "Prevention and extended harmonised system of data collection on trafficking in human beings" in June 2010. On 8 April 2011, this project received a grant from the EU and will be implemented by the Ministry of the Interior over a period of 18 months. The main aims of the project are to set up a system for co-ordinated and harmonised data collection on THB, increase awareness about THB among the general public, relevant public bodies and NGOs and to organise campaigns, trainings, workshops and an international conference. The project will involve representatives of the Expert Group, the Information Centre for Combating Trafficking in Human Beings and Crime Prevention, law enforcement authorities, employees of the Ministry of Labour, Social Affairs and Family, expert consultants/lecturers, representatives of NGOs and international organisations and foreign embassies in the Slovak Republic. The activities under the project include strengthening of co-operation among entities engaged in combating THB; setting up of technical facilities for data collection on THB; a media campaign to raise awareness on THB and its forms, especially forced labour; the drawing up of a methodical guide aimed at identification of victims of trafficking for the purpose of forced labour; and training of relevant professionals to perform such identification.

61. Further, in 2010, the Police Corps Academy carried out a research entitled "Prognosis of the THB offence commitment with regard to accession to Schengen"⁸ which included research on forms of trafficking in human beings for the purpose of forced labour. The research also examined the level of public awareness of possible risks of THB. Up to 60% of victims of THB come from the Roma community and one of the priority tasks under this research project was to examine the THB situation in this community. In co-operation with the Office of the Plenipotentiary of the Slovak Government for Roma Communities, a questionnaire-based survey was carried out concerning THB for the purpose of forced labour in Banská Bystrica, Prešov and Košice Regions. The survey confirmed that the most frequent form of exploitation was forced prostitution. Most of the victims were women between 19 and 35 years of age. They came predominantly from areas affected by unemployment and from vulnerable families. A considerable number of victims depended on social benefits. Victims were trafficked to the United Kingdom, Germany, Austria, Italy, the Czech Republic, Belgium, Switzerland and France. The survey also revealed that in many cases influential personalities within the Roma community were users and even recruiters of persons into THB. Furthermore, in 2010, the Police Corps Academy carried out a country-wide survey on public awareness about the possible risks of THB which involved 1290 respondents. The results of this survey are currently being finalised.

62. GRETA welcomes the research on THB and its aspects and encourages the Slovak authorities to set out and implement systematic and thorough research policy concerning THB and its changing trends, which is key to a well-informed and sustainable THB prevention policy.

⁸ Unofficial translation provided by the Slovak authorities.

63. **Further, GRETA urges the Slovak authorities to introduce a comprehensive and coherent data collection mechanism that would make it possible to share information among the main actors in the fight against THB, while respecting the rights of data subjects to personal data protection. Statistical data should be disaggregated (into gender, age, type of exploitation, etc.) and its collection should be designed in a way that enables the authorities to determine the scale of the problem and to identify the most appropriate measures to be taken with regard to groups affected by THB and forms of THB.**

c. Economic empowerment measures for disadvantaged groups

64. The Slovak authorities have referred to a number of legal acts relevant to the provision of social and economic measures to disadvantaged groups, in particular the Act on Social Services which aims *inter alia* at the “prevention of the creation, the resolution, or the alleviation of the unfavourable social situation of a natural person, family or community, the conservation, restoration or development of the ability of a natural person to lead an independent life and the support of his/her integration into society”⁹. Pursuant to this Act, an unfavourable social situation as a threat of social exclusion or limitation of a person’s ability to integrate socially and solve his/her problems independently may result in a person becoming a victim of THB. On the basis of this Act, persons in an unfavourable social situation (including victims of trafficking) may apply for a “material needs benefit” from the state.

65. That said, as far as GRETA is aware, no social and economic empowerment measures targeted at socially disadvantaged groups vulnerable to THB have been taken for the purpose of preventing THB. During GRETA’s country visit, the Slovak authorities confirmed that according to recent studies, poverty was the main factor pushing people into THB situations. Trafficking affected populations in the areas with a high rate of unemployment and from socially vulnerable families dependant on social benefits.

66. GRETA notes the inclusion of the task entitled “Strengthening of the existing socio-economic measures regarding risk groups of inhabitants against trafficking in human beings based on research outputs on the profile of the THB victims” into the new National Programme for Combating Trafficking in Human Beings (2011-2014). **GRETA would like to be informed of the concrete measures taken to implement this important task.**

67. **GRETA considers that more systematic and robust economic, social and educational measures should be taken by the Slovak authorities vis-à-vis groups vulnerable to THB. These measures should be based on the identified structural causes of THB (economic and social conditions, poverty, inadequate education, absence of employment opportunities, etc.) and should consist of actions aiming to eliminate these causes.**

d. Measures to discourage demand

68. In accordance with the Convention, measures to discourage demand for services of victims of THB should be understood as a positive obligation on Parties to adopt and reinforce such measures as regards any form of exploitation for which THB is taking place (see paragraph 108 of the Explanatory Report).

69. GRETA notes that no preventive measures to discourage demand leading to THB have been taken so far. The awareness-raising campaign referred to in paragraph 56 did not address the issue of demand. During the country visit to the Slovak Republic, the GRETA delegation was informed that the research carried out by the Police Academy referred to in paragraph 61 also included prostitution and associated demand for sexual services. The report on this research is expected to be completed in 2011. **GRETA would like to be informed of the results of this research.**

⁹ Unofficial translation provided by the Slovak authorities.

70. GRETA welcomes the inclusion of the task “Organisation of campaigns aimed at query aspect of trafficking in human beings” in the new National Programme to Combat THB for 2011-2014, which is expected to be implemented as of 2012. **GRETA considers that measures to discourage demand for services that may be the result of any form of exploitation for which THB is taking place are an important preventive tool and urges the Slovak authorities to start implementing such measures as soon as possible.**

e. Border measures

71. As regards measures aimed at detection of THB at the borders, the only country outside the Schengen Agreement with which the Slovak Republic has a national border is Ukraine. Other border control points are located at airports. The Alien Police Department, the Border Control of the Police Force and the National Unit to Combat Illegal Migration fulfil the task of detecting illegal transit of migrants through Slovak territory. While performing this task, Police officers may come across victims of THB. According to the Slovak authorities, these officers are regularly trained on issues concerning THB. However, at present no proactive measures are being taken to detect THB victims as such at the borders or on the territory of the Slovak Republic.

72. GRETA is concerned that the main task of the above-mentioned bodies is the detection of irregular migrants. This creates a substantial risk that a victim of THB stopped at the border of the Slovak Republic or on its territory without valid travel documents, visa or residence permit, who does not come forward and indicate that he/she is a victim of THB, may immediately be considered an illegal migrant and treated accordingly. GRETA notes that border Police officers are instructed to inform IOM or the NGO DOTYK – Slovak Crisis Centre of any suspicion that the person might be a victim of THB. Once referred to the IOM or DOTYK, the person concerned should be interviewed for the purpose of identification and, if he/she appears to be a victim of THB, would be eligible for assistance and protection measures. Pursuant to the new National Programme to Combat THB for 2011-2014, the Ministry of the Interior is planning to organise special training for border Police staff in order to enhance their expertise and ability to identify potential victims of THB. In addition, according to the Slovak authorities, information sheets have been distributed in several languages in places of detention of illegal migrants, asylum facilities and border control points with a view to increasing self-identification of victims of THB.

73. GRETA is mindful that by creating a common external border States Parties to the Schengen Agreement facilitate the movement of persons within this area. However, this freedom of movement also creates greater opportunities for traffickers to rotate victims from one country to another within the Schengen area almost with the same ease as they would within a given country. GRETA takes note of the information concerning measures initiated by the Office of the Border and Alien Police in the first half of 2011 to increase the ability of the border Police to identify victims of THB and to provide them with the necessary tools, such as creating and distributing a unified questionnaire for the identification of victims of THB, preparing the procedure for assisting foreign victims of THB discovered at the border, and training border Police officers on identifying victims of THB among migrants. That said, GRETA is concerned that the current measures taken to prevent THB between the Slovak Republic and other States Parties of the Schengen Agreement are insufficient for achieving this objective.

74. **GRETA welcomes the inclusion of activities aiming to improve identification of THB victims at the Slovak border in the new National Programme to Combat THB for 2011-2014 and considers that the Slovak authorities should take further steps to enhance the capacity of the relevant bodies to identify victims of THB when carrying out immigration control. To this end, the presence of officers specially trained to detect and identify victims of THB should be ensured at all times in immigration control activities, including within the National Unit to Combat Illegal Migration.**

f. Information concerning legal entry and stay

75. The task of providing information concerning the legal entry and stay on the territory of the Slovak Republic falls within the competence of the Ministry of Foreign Affairs and is carried out by Slovak embassies and consular representations abroad. The means to provide such information (e.g. notice boards in the consulates and embassies, the official website of the Ministry of Foreign Affairs, telephone consultations), as well as the languages in which it is available, seem to constitute an adequate effort on behalf of the Slovak Government to ensure that information about the conditions of legal entry and stay in the Slovak Republic is made available to persons intending to travel there.

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

a. Identification of victims of THB

76. To protect and assist trafficking victims it is of paramount importance to identify them correctly, with due regard to their dignity. Article 10 of the Convention requires Parties to adopt measures to identify victims. In order to do so, Parties must provide their competent authorities with persons who are trained and qualified in preventing and combating THB and in identifying and helping victims, including children. The Convention also includes the status of a potential victim, as it establishes that when the competent authorities have reasonable grounds to believe that a person has been a victim of THB, he/she must not be removed from the country until the identification process as victims of a trafficking offence is completed.

77. According to the Slovak Government, the identification of victims of THB may be carried out by any public or non-governmental body in the Slovak Republic, as well as by any foreign agency abroad. These may include different services of the Police Force, employees of the Migration Office, the Offices of Labour, Social Affairs and Family, the Ministry of Education, medical staff, social workers, consular staff abroad, NGOs and international organisations. Furthermore, victims of THB can identify themselves as such or be identified by family members through the national helpline for victims of trafficking.

78. A manual containing questions with a view to facilitating the identification of victims of THB has been drawn up by the office of the IOM in Bratislava and approved by the Ministry of the Interior. This manual has been provided to entities which come in contact with victims of THB.

79. According to statistics provided by the Slovak Government, the number of victims of THB identified in 2008 and 2009 were 57 and 41 respectively. The majority of them (56 in 2008 and 38 in 2009) were victims of transnational THB who were identified abroad. The remaining victims were Slovak nationals subjected to internal THB. No foreign victims of THB have been identified. As regards child victims of THB, there were two identified in 2008 and one in 2009.

80. The Slovak authorities have indicated that staff of the Department of Socio-Legal Protection of Children and Social Guardianship and the respective local departments have undergone training on identifying child victims of trafficking. In addition, the staff of the Children's Home for unaccompanied minors in Horné Orechové and the staff of the Children's Home in Topoľčany have also been trained in identifying victims. That said, GRETA is concerned by the shortcomings in the identification process of child victims of trafficking. At present, there are no special procedures for the referral of trafficked children to the social protection authorities.

81. GRETA also notes that according to information provided by the Slovak authorities, the number of unaccompanied minors has more than doubled between 2009 and 2010 (119 and 264 respectively). Further, GRETA has received reports concerning unaccompanied foreign minors placed in child care facilities, who had absconded from these facilities, allegedly at the instigation of traffickers. The National Co-ordinator for Combating Trafficking in Human Beings has not been informed of any victims of THB identified among unaccompanied minors. Although it is not possible to state with certainty whether any of these children were victims of trafficking, the Slovak Government has confirmed that in September 2010 as many as 76 unaccompanied minors escaped from the Children's Home in Horné Orechové and that there was serious concern that traffickers targeted this group and managed to continue their trafficking route. GRETA appreciates the co-operation of the Slovak authorities in bringing this issue to the light and is convinced that measures should be stepped up to identify child victims of THB. There is clearly a need for further co-operation and co-ordination among the relevant authorities to ensure appropriate identification of and assistance to child victims of THB.

82. The Slovak authorities have also referred to the drawing up of a tool intended to assist social workers in identifying child victims of THB and providing protection and assistance to them (internal standard c. IN - 068/2010 "Execution of Measures of Socio-Legal Protection of Children and Social Guardianship for the THB Victims"). Further, the National Programme to Combat THB for 2011-2014 contains an activity entitled "Co-ordination in the field of acting of involved entities in cases of trafficking in human beings in case of minors and foreigners", which is relevant to the identification of victims of THB.

83. GRETA urges the Slovak authorities to set out the procedures relating to the identification of child victims of THB, both among to Slovak nationals and foreign nationals who could be victims of THB, including any possible role of the authorities responsible for child protection.

84. Further, as mentioned in paragraph 72, GRETA is deeply concerned that irregular migrants who are apprehended by law enforcement officials run the risk of being deported without having been identified as victims of THB. Indeed, NGO representatives met during the country visit expressed the view that many of the deported illegal migrants may be unidentified victims of THB.

85. According to the Slovak authorities, once a foreigner has been identified as a victim of THB, it is not possible to remove him/her from the country's territory. However, no examples could be given in this respect as no foreign victims have been formally identified so far. In GRETA's view, the absence of a proactive approach to the identification of foreign victims of THB creates a risk that a number of such victims, i.e. all those who do not come forward to report themselves as such, would be left out. According to the Slovak authorities, in early 2011, the Police initiated for the first time ever the identification of a foreigner whom they had reasonable doubt to believe was a victim of THB. The person concerned was transferred to an NGOs providing assistance and protection measures to victims of THB and was included in the Programme of Support and Protection of Victims of Trafficking in Human Beings. However, shortly afterwards, the person left the Programme and it turned out that she was in fact not a victim of THB.

86. During GRETA's country visit, senior prosecutors and representatives of NGOs expressed concerns about the situation of agricultural workers from Vietnam who reportedly work in hemp fields under extremely difficult conditions and could be victims of THB for labour exploitation. GRETA was not in a position to ascertain this information, but the fact that it came from several independent sources increases its credibility.

87. The Slovak authorities have informed GRETA about a criminal case initiated in April 2010 involving an organised criminal group engaged in illegal employment of foreign nationals in the Slovak Republic. The initial charge was organising a criminal group and legitimisation of the proceeds of crime. However, due to the facts revealed during the investigation the case was re-qualified into THB for labour exploitation. The victims (10 men) were kept under control by the traffickers mostly through debt bondage and other kind of pressure. None of them were formally identified as victims of THB as some decided not to enter the Programme of Support and Protection and others requested voluntary return. According to the authorities, intelligence about possible THB for labour exploitation carried out by organised by criminal groups is currently being collected by the Police Corps, which might lead to new cases of THB for this purpose.

88. GRETA takes note of the mechanism for inclusion of a victim of THB in the Programme for Support and Protection of THB victims. Nonetheless, **GRETA urges the Slovak authorities to continue taking steps to ensure that the identification of victims of THB be improved, in particular by setting up a coherent national mechanism for the identification and referral of victims of THB and by designating a competent authority responsible for collecting information and ensuring the uniformity and accuracy of the identification of victims of THB.**

89. **In light of the above GRETA urges the Slovak authorities to:**

- **take practical measures to strengthen the capacity of the border Police and other competent authorities to identify possible victims of THB upon their entry on the territory of the Slovak Republic and refer them to the relevant services for protection and assistance to victims of THB;**
- **adopt a proactive approach to the identification of victims of trafficking for the purpose of labour exploitation by stepping up visits by labour inspectors and the Police to work sites (e.g. agricultural and construction sites) commonly employing migrant workers and by developing and using indicators to identify victims of THB;**
- **secure the identification of foreign victims of THB held in detention centres prior to their deportation, for instance by giving access to such centres to specialised NGOs and enabling detained irregular migrants to have access to legal assistance;**
- **ensure that identified victims of THB are duly referred for assistance and are informed of their rights and of the procedures under which they can seek protection, in a language they understand.**

b. Status and rights of a victim of THB

90. GRETA considers that victims of THB are a special category of victims and need to be differentiated from victims of other crimes. It is generally acknowledged that one of the specific features of THB is that it does not consist of a single criminal offence, but represents a chain of offences repeatedly committed in respect of the same person, often lasting a considerable amount of time and sometimes involving physical or psychological violence. The accompanying ill-treatment, denigration, abuse and neglect causes an overwhelming trauma on almost any victim of THB and deprives them of the capacity to lead a life fulfilling the basic conditions necessary for respecting the human dignity often during years after being freed from the trafficking chain. Unless victims of THB are recognised in a manner entitling them to all the protection and assistance measures set out in the Convention, it would be impossible to remove them from the traffickers, re-integrate them into society and restore their infringed rights and dignity.

91. According to the Slovak authorities, the status of a victim of THB as such does not exist in Slovak legislation. From a criminal law perspective, THB victims fall within the category of “injured party” which is used to describe victims of any criminal offence within the meaning of Articles 46 to 50 of the CC. THB victims may also fall within the category of “witnesses” if they co-operate with authorities and testify in criminal proceedings.

92. At the administrative level, victims of THB are included in the Programme of Support and Protection of Victims of Trafficking in Human Beings, which is governed by the previously-mentioned Regulation No. 47 of the Minister of the Interior (see paragraph 43). According to this Regulation, Slovak nationals who are victims of THB and express an interest to be included in the Programme are accepted by decision of the National Co-ordinator. As for foreign victims of THB, they may be included in this Programme if they declare themselves victims of THB and are granted a permit for tolerated residence by the Department of Alien Police in accordance with the Act of Residence of Foreigners (see paragraph 112).

93. GRETA notes the intention of the Slovak authorities to harmonise the status and rights of victims of THB reflected in its legislation in the framework of one of the tasks included in the National Programme to Combat THB for 2011-2014. **GRETA considers that the Slovak authorities should ensure that victims of THB have access to the rights set out in the Convention and are fully informed about these rights.**

c. Assistance and protection measures for victims of THB

94. The Convention requires Parties to take measures to assist victims in their physical, psychological and social recovery, taking account of the victim’s safety and protection needs, in co-operation with NGOs and other organisations engaged in assistance to victims. This assistance must be provided on a consensual and informed basis, taking account of the special needs of persons in a vulnerable position, as well as children, and it must not be made conditional on the victim’s willingness to act as a witness (Article 12).

95. The previously-mentioned Programme of Support and Protection of Victims of Trafficking in Human Beings envisages a series of measures for Slovak victims of THB, which include *inter alia* isolating them from the criminal environment, assisting their voluntary return, providing anonymous accommodation upon their request, emergency care for up to 90 days, financial support, social assistance, counselling, requalification courses and the possibility of financial compensation. For foreign victims of THB the Programme envisages isolation from the criminal environment, legalising their presence on the territory of the Slovak Republic, anonymous accommodation upon request, a 90-day recovery period and assistance measures, assistance and protection during criminal proceedings (in case the victim decides to co-operate with the law enforcement authorities), financial aid, social assistance, psycho-social counselling, psychotherapeutic services, legal counselling, interpretation, health care, etc. Victims are also informed of the possibility to enter the Programme of Witness Protection pursuant to the Act on Witness Protection, the possibility for financial compensation pursuant to the Act on Compensation of Persons Injured in Violent Criminal Offences, and the possibility of obtaining permanent residence (if this is in the interest of the Slovak Republic).

96. The different types of assistance envisaged by the Programme are provided by the IOM and NGOs which are contracted by the Ministry of the Interior and are funded from the budget of that Ministry. Assistance in the reintegration of victims of THB and voluntary returns is mainly provided by the Office of the IOM in Bratislava, DOTYK - Slovak Crisis Centre and the Slovak Catholic Charity. Outreach work relating to discovering possible victims of THB in the street sex business is carried out by the Civic Association Prima. As for assistance to child victims, it is provided by the Civic Association Náruč, the Children’s Home in Topoľčany and the offices of the authorities for social and legal protection of children and social guardianship. Further, preventive activities and outreach work for victims in Roma communities are carried out by the Association of Community Centres.

97. GRETA welcomes the co-operation established between the Ministry of the Interior, the IOM and NGOs engaged in victims assistance, which is in line with the spirit of the Convention. GRETA also notes with satisfaction that the budget allocated for measures to assist victims of THB has increased considerably, from 49 790 euros in 2007 to 220 200 euros in 2010.

98. GRETA was informed that the supervision of the activities of NGOs in relation to the assistance to victims of THB is carried out by the Ministry of the Interior by means of annual reports on the use of the budget provided by the Ministry for the period concerned. However, it is not clear whether this supervision includes a verification of the quality of the assistance measures provided. In this context, GRETA notes that some of the assistance measures are provided by professionals (e.g. psychologists, lawyers, medical doctors, sociologists) sub-contracted by the NGOs concerned. In such cases the actual provider of the assistance measures is even more remote from the national authorities who are ultimately responsible for the implementation of the Convention. In this context, GRETA notes that under the new National Programme to Combat THB for 2011-2014 it is envisaged to monitor the implementation of the Programme of Support and Protection of Victims of THB and present annual reports to the National Co-ordinator.

99. Furthermore, GRETA was informed by NGOs providing victim assistance that in most cases, victims' needs are assessed solely on the basis of the wishes expressed by the victims themselves. GRETA agrees that it is essential to consult victims and have their informed consent to the assistance measures provided, but it also wishes to point out that sometimes appropriate evaluation of victims' needs requires a methodological and professional approach. Therefore it is important that persons assessing victims' needs have sufficient professional training enabling them to do so adequately. GRETA takes note of the information provided by the Slovak authorities concerning the training module organised with the IOM on identification of THB victims attended by NGOs co-operating with the Ministry of the Interior and of the availability of an IOM manual on THB. It would be desirable for such trainings to be systematic and the materials used for identification, assistance and assessment of the needs of THB victims be specifically adapted to characteristics of THB in the Slovak Republic.

100. In the case of victims of THB accommodated in an emergency accommodation facility, their security and protection is achieved by maintaining the confidentiality of the location and the anonymity of the victim. As regards the accommodation facility run by IOM Bratislava, it has a guarded entrance, access of unauthorised persons is forbidden and the address of the facility is kept confidential. If security risks are created by victims' inappropriate behaviour, the latter receive a warning and if such behaviour persists the person concerned may be expelled from the Programme of Support and Protection of THB Victims. The NGO DOTYK - Slovak Crisis Centre operates an emergency accommodation facility intended for crisis intervention and victim reintegration, which is protected by a monitoring system and is also connected to a security service. The safety of the accommodation premises run by this NGO is maintained by not disclosing the address either to institutions or to private persons.

101. Once a victim of THB completes the Programme of Support and Protection of Victims of Trafficking in Human Beings, little information is available about his/her social and economic reintegration. The only follow-up is given by the IOM, which establishes contacts with such persons and keeps their personal files. That said, the Slovak authorities have no involvement in this process.

102. In GRETA's view, the state should systematically verify the quality of the assistance measures and their short- and long-term impact on victims. As pointed out in paragraph 149 of the Explanatory Report to the Convention, even though the assistance to victims can be provided in co-operation with NGOs and other relevant organisations, it is nevertheless State Parties that remain responsible for meeting the obligations in the Convention. Consequently, it is the national authorities who have to take the steps necessary to ensure that victims receive the assistance they are entitled to. In this respect GRETA notes that, pursuant to the new National Programme to Combat THB for 2011-2014 the Ministry of the Interior intends to appoint an independent expert with the task of monitoring the implementation of the Programme of Support and Protection of Victims of THB. GRETA would like to be informed of the results of this monitoring.

103. **GRETA considers that the Slovak authorities should take further steps to:**

- **ensure that the protection and assistance measures provided to victims of THB in accordance with the Convention are based on a professional and objective evaluation of the victim's needs and are provided to all victims of THB, irrespective of their nationality and residence status;**
- **ensure that assistance and protection measures are provided by qualified professionals, in particular as regards social, medical and legal assistance;**
- **monitor the effectiveness and quality of the assistance and protection measures, including the reintegration of victims of THB into the society to avoid their re-trafficking.**

d. Recovery and reflection period

104. As victims of THB are extremely vulnerable after the trauma they have experienced, the Convention introduces the obligation for Parties to provide in their internal law for a recovery and reflection period of at least 30 days. The minimum 30-day period constitutes an important guarantee for victims and potential victims and serves a number of purposes, including to allow them to recover and escape the influence of traffickers¹⁰. During this period, Parties must authorise foreign victims of THB to stay in their territory.

105. According to the Slovak authorities, the provision equivalent to a recovery and reflection period is contained in the Article 43(7) of the Act on the Residence of Foreigners pursuant to which "the Police department shall grant a permit for tolerated residence to a victim of trafficking in human beings for no more than 90 days, if the person declared she/he has been victim of THB". The Slovak authorities have stressed that the permit for tolerated residence is three times longer than the minimum duration of the recovery and reflection period set out in Article 13 of the Convention.

106. The Slovak authorities have informed GRETA that 38 victims of THB were granted a recovery and reflection period in 2008, and 20 in 2009. However, this information appears to be inconsistent with the fact that no foreign victims have been identified in the Slovak Republic. As clarified by public officials met during GRETA's country visit, the permit for tolerated residence applies to all foreigners illegally present in Slovakia to ensure that their presence is made legal in cases specified by law, and not only in the case of victims of THB. Therefore the previously mentioned figures in fact refer to all foreigners who have received such a permit, none of them being a victim of THB.

107. GRETA must stress that the recovery and reflection period within the meaning of the Convention differs significantly from the permit for tolerated residence provided for under Slovak law. As already pointed out, one of the objectives of the recovery and reflection period within the meaning of the Convention is to help victims to recover and stay free of the traffickers; during that period, the victims should be entitled to assistance and protection measures. However, the effect of the permit for tolerated residence is limited to legalising the stay of the person on the Slovak territory, without entitling that person to any assistance and protection measures.

108. Furthermore, the recovery and reflection period under the Convention can also be used for those victims who are legally resident on the territory of a state with a short term residence permit. In contrast, the permit for tolerated residence is only issued to aliens who are illegally present.

¹⁰ See the Explanatory Report on the Convention, at paragraphs 172 and 173.

109. Finally, the permit for tolerated residence is considered by the Slovak authorities as corresponding both to a recovery and reflection period and a residence permit for victims of THB. GRETA would like to refer to paragraph 175 of the Explanatory Report which states: “The reflection and recovery period provided for in Article 13(1) should not be confused with the issue of the residence permit under Article 14(1)”. In addition, GRETA notes that assistance and protection measures under the Slovak regulations may only be provided once a potential victim accepts to be included in the Programme of Support and Protection of Victims of THB (i.e. is formally identified), which leads to the conclusion that before taking such decision potential victims of THB shall not have access to any assistance and protection measures, to which they are entitled by virtue of Article 13 of the Convention.

110. GRETA urges the Slovak authorities to take legislative and practical measures to introduce a recovery and reflection period for victims of THB as provided for in Article 13 of the Convention. The recovery and reflection period should *inter alia* entitle victims to the assistance and protection measures contained in Articles 12(1) and 12(2) of the Convention.

e. Residence permits

111. Article 14(1) of the Convention provides that victims of trafficking in human beings shall be issued with renewable residence permits. This provision meets both victims’ needs and the requirements of combating THB. The two conditions laid down in Article 14(1) for issue of a residence permit are that either the victim’s stay be “necessary owing to their personal situation” or that it be necessary “for the purpose of their co-operation with the competent authorities in investigation or criminal proceedings”. The aim of these requirements is to allow Parties to choose between granting a residence permit in exchange for co-operation with the law enforcement authorities and granting a residence permit on account of the victim’s needs, or to adopt both simultaneously.

112. Under Slovak law, the issuing of residence permits to victims of THB, their types and duration are regulated by the Act on the Residence of Foreigners. Pursuant to this Act, “the Police department shall grant a permit for tolerated residence to a foreigner who is a victim of a crime related to trafficking in human beings if he/she is at least 18 years old; the law enforcement authority notifies the foreigner of the opportunity and conditions for granting a permit for tolerated residence for this reason and on the rights and obligations issuing from it”. Information on the permit for tolerated residence is made available by means of leaflets and brochures concerning the Programme of Support and Protection of Victims of THB issued by the Ministry of the Interior in different languages. As noted in paragraph 105, the permit for tolerated residence is initially granted for up to 90 days, but it can be extended by 180 days if the reason for which it was granted persists and the presence of the foreigner is necessary for the purposes of criminal proceedings. According to the Slovak authorities, the only requirement for a victim of THB to be granted a tolerated residence permit is a declaration by the person concerned that he/she has been subject to THB.

113. As regards child victims of THB, the Act on the Residence of Foreigners provides that “the Police department shall grant a tolerated residence permit to a foreigner who is a minor child found on the territory of the Slovak Republic”. This provision is not THB-specific and applies to all unaccompanied foreign minors. In such cases, the child should be handed over to the nearest authority responsible for the social and legal protection of children and guardianship. In GRETA’s view, taking into account the observations made in paragraph 81 above, the current system of identification of trafficked children should be reviewed with a view to ensuring appropriate identification of such children and providing them with the corresponding residence status.

114. Apart from the permit for tolerated residence, Slovak legislation envisages the granting of a permanent residence permit to aliens, including victims of THB, by the Department of Alien Police of the Police Force. Such a residence permit may be granted to a victim already holding a permit for tolerated residence, upon confirmation by the National Co-ordinator on Combating Trafficking in Human Beings, if “it is in the interest of the Slovak Republic to grant such a residence permit”. This formulation leaves a wide margin of discretion to the national authorities and might discourage foreign victims of THB to apply for a permanent residence permit, regardless of the difficulty of their personal situation. GRETA is aware that obtaining a residence permit is not an entitlement, but both victims of THB and the decision making authorities could benefit from a greater clarity of the legal provisions. In the context of THB, the personal situation can be compelling, as it encompasses a number of factors including the victim’s safety, health, family situation, etc. which need to be taken into account.

115. GRETA considers that the Slovak authorities should set out the specific requirements for victims of THB to obtain residence permits and ensure that potential victims of THB are informed of these requirements.

f. Compensation

116. Article 15 of the Convention establishes the obligation for Parties to provide in their internal law for the right of victims of THB to legal assistance and free legal aid. Parties must also provide for the right of victims to compensation from the perpetrators of the THB, and must take measures to guarantee compensation for victims, in accordance with their internal law. A human rights-based approach to THB allows for effective prosecution of traffickers, putting the emphasis on the right to effective remedy for the victim. In this context, victims of THB have an international legal right to adequate and appropriate remedies.

117. The Slovak authorities have referred to the Act on Compensation of Persons Injured by Violent Crimes which governs the compensation of victims of any crime who show signs of physical injury. GRETA notes that this Act is the result of the transposition of the EU Council Directive 2004/80/EC of 29 April 2004 on compensation to crime victims with the objective of allowing the submission of the application in a member state other than the state of permanent residence of the applicant.

118. The Slovak authorities have further stated that if trafficking in human beings does not result in a physical injury under Article 2 of the above-mentioned Act, but other damage has occurred, the auxiliary proceedings under the Criminal Code or a civil claim remain as possibilities for victims of THB to obtain compensation.

119. GRETA notes that to receive compensation under the above-mentioned Act on Compensation, victims of THB are required to show signs of physical injury, which does not always occur in cases of THB. Therefore, the application of this Act will be limited only to those victims of THB who not only suffered physical injury, but are able to show signs of it. In addition, it applies only to EU nationals and is thus discriminatory to third-country nationals. GRETA concludes that at present the Slovak Government has not adopted such legislative or other measures as may be necessary to guarantee compensation for all victims of THB and that not a single victim of THB has so far received compensation. In this respect, GRETA notes that the National Programme to Combat THB for 2011-2014 envisages to “examine the possibility to compensate THB victims using profits of an offender obtained as a result of criminal activity in accordance with international commitments of the Slovak Republic.”

120. GRETA urges the Slovak authorities to take the necessary legislative and practical measures to ensure that compensation is made available to all victims of THB, irrespective of their nationality and residence status. In deciding the compensation arrangements the Slovak Government should take into account the relevant provisions of the European Convention on the Compensation of Victims of Violent Crimes (to which the Slovak Republic is Party) and Recommendation Rec(2006)8 of the Committee of Ministers to member states on assistance to crime victims.

g. Repatriation and return of victims of THB

121. The Convention requires Parties to establish repatriation programmes, involving relevant national or international institutions and NGOs, as well as to make efforts to favour the reintegration of victims into the society of the state of return, including into the education system and the labour market. Parties must also make available to victims of THB contact information or structures that can assist them in the country of return, such as law enforcement officers, NGOs, legal professionals and social welfare agencies. The return of victims of THB must preferably be voluntary and needs to be carried out with due regard for the rights, safety and dignity of the person and for the status of any legal proceedings related to the fact that the person is a victim of THB (Article 16).

122. According to the Slovak Government, the repatriation and return of foreign victims of THB is carried out under the Act on the Residence of Foreigners and the Act on Asylum. The repatriation and return procedure should include pre-return counselling, securing of travel documents, airport assistance and other operations as necessary. The examination and decision making in cases concerning return of victims of THB falls within the competence of the Department of Alien Police. The return is organised by the office of the IOM in Bratislava under a co-operation agreement with the Ministry of the Interior. However, it has not been possible to apply these provisions in practice so far as no foreign victims of THB have been identified.

123. As regards facilitating the return of victims of THB who are nationals or habitual residents of the Slovak Republic, once such a person has been identified as a victim of THB by the competent authorities of another country and is repatriated to the Slovak Republic, he/she may request to be included in the Programme of Support and Protection of Victims of Trafficking in Human Beings. His/her recognition as a victim THB may be based on:

- the actual identification of the victim (in the foreign country),
- statements of the reporting organisation or institution confirming that the person is a victim of THB,
- the inclusion of the victim in the Programme of Support and Protection Victims of Trafficking in Human Beings.

124. Victims of THB are repatriated with the assistance of the IOM, which also helps them in reintegration. Assistance measures are also provided by NGOs in accordance with agreements concluded with the Ministry of the Interior. These measures include a general health assessment, psychological counselling and psychotherapy, therapeutic care, social assistance and counselling, assistance in contacts with the authorities, legal advice, temporary safe accommodation, requalification and job search assistance. The co-ordination of assistance measures is carried out by the IOM.

125. However, GRETA is concerned by reports that victims of THB coming from socially and economically disadvantaged areas have returned to the environment which previously led to their being trafficked after completing the Programme. This puts the effectiveness of the Programme as regards social and economic re-integration of victims of THB in question. GRETA must stress that the state should assume the responsibility for the social reintegration of THB victims. In this respect, special attention should be paid to child victims of THB, in particular by ensuring that repatriation and any following measures are carried out in full respect of the best interests of the child. GRETA notes that the National Programme to Combat THB for 2011-2014 contains as a specific task the provision of continuity of the reintegration programmes for THB victims.

126. GRETA considers that the Slovak authorities should step up their efforts to reintegrate victims of THB into society. In particular, the authorities should devise specific programmes aiming at the reintegration of victims of THB into the labour market and/or education system and be able to verify the results of these programmes.

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

a. Substantive criminal law

127. Pursuant to Article 18 of the Convention, Parties have the obligation to establish THB as a criminal offence when committed intentionally. Further, the Convention requires Parties to consider taking measures to criminalise the use of services which are the object of exploitation, with the knowledge that the person is a victim of THB (Article 19). In addition, forging travel or identity documents, removing, concealing or destroying them, as well as procuring or providing them, must also be established as criminal offences, when committed intentionally and for the purpose of enabling THB (Article 20). The offences referred to in these articles represent a minimum consensus which does not preclude adding to them in domestic law. Such a harmonisation is also important for enabling effective international co-operation, in particular extradition and mutual legal assistance. Further, Article 24 of the Convention requires Parties to ensure that certain circumstances are regarded as aggravating in the determination of the penalty for the offences established in Article 18.

128. Pursuant to the provisions of Articles 179 to 181 of the CC (see paragraphs 32 and 36) the offence of THB is punished by imprisonment from four to 10 years. The aggravating circumstances, provided for in Article 179, are as follows:

- “(3) The offender shall be sentenced to seven to 12 years of imprisonment, if he/she commits the offence referred to in paragraphs 1 or 2,
- a) and thereby gains higher profit for himself/herself or for another person;
 - b) against the protected person;
 - c) with special motive; or
 - d) by using a more severe method of conduct;
- (4) The offender shall be sentenced to 12 to 20 years of imprisonment, if he/she commits the offence referred to in paragraphs 1 or 2,
- a) and thereby gains considerable profit for himself/herself or for another person;
 - b) and thereby causes severe bodily harm or death, or other particularly serious consequence; or
 - c) as a member of a dangerous group;
- (5) The offender shall be sentenced to 20 to 25 years of imprisonment or to life imprisonment, if he/she commits the offence referred to in paragraphs 1 or 2,
- a) and thereby gains profit of a great extent for himself/herself or for another person; or
 - b) and thereby causes severe bodily harm or death of several persons.”¹¹

129. In addition, the list of aggravating circumstances applicable to all crimes, which is provided for in Article 37 of the CC, includes the commission of an offence by a person who abused his/her occupation, profession, function or position to achieve unjustified benefit. According to the Slovak authorities, when a THB offence is committed by a public official in the discharge of his/her duties it is most likely that the prosecution will be carried out pursuant to Article 179 in conjunction with other offences, such as abuse of power (Article 326 of the CC), corruption etc., which leads to higher penalties.

¹¹ Unofficial translation provided by the Slovak authorities.

130. GRETA notes that Article 37 of the CC includes a previous conviction as an aggravating circumstance which may be taken into account by Slovak courts. However, Slovak legislation does not provide for the possibility to take into account previous convictions for THB offences in another Party when determining penalties for THB offences, which could allow for imposition of higher penalties for repeat offending. Such convictions can only be taken into account by Slovak courts if the judgements of foreign courts are acknowledged by domestic courts. GRETA takes note of the ongoing legislative transposition of the EU Council Framework Decision 2008/675/JHA of 24 July 2008 on taking account of convictions in the member states of the European Union in the course of new criminal proceedings, which would ensure that previous convictions of courts in EU member states will automatically be recognised by Slovak courts.

131. GRETA considers that the Slovak authorities should adopt all necessary measures to provide for the possibility for the Slovak courts to take into account convictions of courts of all Parties to the Council of Europe Anti-Trafficking Convention when determining penalties for THB offences.

132. According to information provided by the Slovak authorities, no criminal offence is established for conducts relating to travel and identity documents referred to in Article 20 of the Convention, when such conducts are committed intentionally and for the purpose of enabling THB. That said, representatives of the Prosecutor General's Office met during GRETA's country visit indicated that such offences would be punishable under other articles of the Criminal Code, in particular the one concerning aiding or abetting the commission of an offence. Further, falsification of travel and other documents, such as deeds, official seals, signs and marks are punishable under Article 352 of the CC. If such acts were committed to enable THB then the provisions of Article 21 of the CC concerning aiding or abetting in the commission of a criminal offence shall apply. However, no criminal offence is established for retaining, removing, concealing, damaging or destroying a travel or identity document of another person for the purpose of enabling THB, which is expressly requested by Article 20 of the Council of Europe Convention.

133. Slovak legislation does not criminalise the knowing use of services of a victim of THB and no consideration has so far been given to making this a criminal offence. According to Slovak public officials met during GRETA's country visit, such an offence would be extremely difficult to prove and its deterring effect would be insignificant. Nonetheless, GRETA takes the view that the possibility to criminalise the use of services of a victim should be carefully considered in the context of reviewing the anti-trafficking legislation.

134. The criminal law provisions establishing liability of legal persons for criminal offences have entered into force on 1 September 2010. According to the Slovak authorities, no legal persons have been subject to criminal or non-criminal sanctions for THB-related offences so far.

135. GRETA urges the Slovak authorities to review the legislation in order to fully reflect the substantive provisions of the Convention, in particular as regards the establishment of criminal offences for conducts related to travel and identity documents and committed for the purpose of enabling THB.

b. Non-punishment of victims of THB

136. GRETA notes that the Slovak legislation does not provide for the possibility of not imposing penalties on victims of THB compelled to be involved in unlawful activities. The only manner to alleviate the penalties is to invoke the mitigating circumstances applied to any offence in the framework of the criminal procedure. In this respect GRETA notes that some of the mitigating circumstances envisaged by Article 36 of the CC may be relevant in alleviating penalties for victims of THB, in particular when a person:

- “a) committed an offence in excusable strong emotional disturbance,
.../...
- e) committed an offence under pressure of dependence or subordination,
- f) committed an offence under the influence of threat or coercion,
- g) committed an offence in consequence of an emergency, not caused by himself/herself,
- h) committed an offence under the influence of precarious personal circumstances or family circumstances, not caused by himself/herself,
- i) committed an offence in an attempt to avert an attack or other danger, or acting under circumstances that would exclude the punishment of the crime while meeting other conditions, but he/she acted without the full observance of the conditions of private defence, exigency, exercise of law and obligation or consent of the injured party, lawful use of guns, legally allowed risk, or fulfilment of agent tasks,
.../...
- n) assisted in detecting criminal activity by the competent authority, or
- o) contributed to the disclosure or conviction of an organised group, criminal group or terrorist group”.¹²

137. According to the Slovak authorities, the court will consider all mitigating circumstances pursuant to Article 36 of the CC when determining a penalty for a victim of THB. The court may also use alternative legal possibilities to reduce the penalty in accordance with Article 39 of the CC (exceptional reduction of a penalty) or to waive the punishment in accordance with Article 40 of the CC (waiver of punishment).

138. The Slovak authorities have indicated that in order to implement the Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and its victims it is intended to amend the legislation with a view to allowing for the possibility of not imposing penalties against THB victims for their engagement in criminal activity if they were forced to do so as in direct connection with their being trafficked.

139. GRETA urges the Slovak authorities to introduce in its legislation a provision concerning the non-punishment of victims of THB who have been compelled to be involved in unlawful activities due to their trafficking situation.

c. Investigation, prosecution and procedural law

140. One of the purposes of the Convention is to ensure the effective investigation and prosecution of THB. In this context, Parties are required to co-operate with each other regarding investigations or criminal proceedings related to THB (Article 32). Further, the Convention establishes that the investigation or prosecution of THB offences must not be dependent on victims' reports, and that associations or NGOs protecting the human rights of the victims must be able to assist victims during criminal proceedings (Article 27).

¹² Unofficial translation provided by the Slovak authorities.

141. Further, in accordance with Article 28 of the Convention, Parties must take measures to provide effective and appropriate protection from potential retaliation or intimidation, in particular during and after the investigation and prosecution of perpetrators. This protection can be of various types (physical, relocation, identity change, etc.) and is to be provided to victims of THB, to those who report it or otherwise co-operate with the investigating or prosecuting authorities, to witnesses who give testimony and, when necessary, to members of the families of those listed above. Appropriate protection against retaliation or intimidation, during and after the investigation and prosecution of traffickers, is also required for members of groups, associations or NGOs which assist victims of THB during criminal proceedings.

142. According to the Slovak authorities, in case of a criminal offence of THB the prosecutor's office initiates pre-trial proceedings *ex officio* irrespective of whether there has been a complaint from the victims and regardless of the victim's will. Criminal cases involving human rights violations are supervised by the Prosecutor General's Office, the primary aim of which is to ensure the appropriate legal qualification of the case before the court. The Slovak authorities have indicated that criminal proceedings were initiated in 11 THB-related cases in 2008 and 10 cases in 2009.

143. According to information provided by the Slovak authorities, there were 10 convictions for THB offences in 2008 and 10 convictions in 2009. The term of imprisonment to which the traffickers were sentenced ranged from 15 months to five years in 2008, and from one to seven years in 2009. GRETA notes that the lowest term of imprisonment, i.e. respectively 15 months in 2008 and one year in 2009, was considerably lower than the minimum term of imprisonment envisaged in Article 179 of the CC (four years). None of these convictions resulted in the confiscation of assets or the closure of a business.

144. During meetings held in the context of GRETA's country visit, various interlocutors expressed concern about the position and status of victims of THB. GRETA was informed that the procedural rights of victims who are "injured parties" differ from those of "witnesses". Some officials met during the visit suggested that "injured parties" had weak procedural rights in court proceedings in comparison to those of perpetrators. This is of particular concern when it comes to victims of THB, who are an especially vulnerable category and are often the only persons able to provide substantial evidence in such criminal cases.

145. GRETA would like to stress the importance of ensuring that victims of THB benefit from all the procedural rights set out in Articles 28 and 30 of the Convention. In this respect, the provisions of the CC concerning the procedure for examining witnesses and injured parties does not differentiate victims of THB. The use of special examination techniques is left to the discretion of the Police, prosecutor and court and is provided for in respect of endangered witnesses, protected witnesses or hidden witnesses in criminal proceedings. If the court decides to give a THB victim the status of endangered, protected or hidden witness, the confrontation between such a victim and the offender would be excluded.

146. Article 135 of the CC provides for the possibility of a special procedure for the hearing of persons younger than 15. GRETA is concerned that any child victim of THB between 15 and 18 years of age, willing to participate in the criminal proceedings, would be deprived of the opportunity of benefiting from this special procedure. GRETA recalls that Article 30(3) of the Council of Europe Anti-Trafficking Convention requires Parties in case of child victims to take care of their special needs and ensure their rights to special protection measures.

147. As regards the procedural rights for a victim of THB who is an "injured party" in case when he/she does not participate in the proceedings as a witness, such person may choose an authorised representative for participation in the criminal proceedings, who is also entitled to claim compensation for damages on behalf of the "injured party". GRETA was not informed of any other procedural rights of victims of THB participating as "injured parties" in criminal proceedings.

148. In light of the above, **GRETA urges the Slovak Government to adopt all necessary legislative and practical measures to ensure that victims of THB and witnesses are given the necessary protection and assistance as required under Articles 28 and 30 of the Convention. For this purpose, it is of fundamental importance that the Police, prosecutors and judges are adequately trained and made aware of the particular sensitivity and vulnerability of THB victims, especially minors.**

5. Concluding remarks

149. The Slovak authorities have made commendable efforts in combating THB since the ratification of the Council of Europe Anti-Trafficking Convention. However, their action against THB is carried out predominantly from a criminal law and immigration law perspective. This is illustrated by the fact that the main legislative provisions relating to THB are contained in the Criminal Code, regulatory acts issued within the Ministry of the Interior and legislation dealing with migration and asylum issues. The fact that the Expert Group for the Area of the Fight against Trafficking in Human Beings and the National Co-ordinator for Combating THB are within the administrative structure of the Ministry of the Interior also pre-determines a law enforcement approach to THB, to the detriment of the human rights-based and victim-centred approach promoted by the Convention.

150. While welcoming the authorities' affirmation that THB is understood as a human rights violation, GRETA considers that the Slovak authorities should take further steps to ensure that the human-rights based and victim-centred approach that underpins the Council of Europe Anti-Trafficking Convention is fully reflected in legislation and practice, from prevention to protection, prosecution and redress. In GRETA's view, developing a human rights-based concept of a "victim of THB", improving identification of victims of THB, introducing a recovery and reflection period with the corresponding assistance and protection measures and providing victims of THB with adequate protection in criminal proceedings, as well as introducing the possibility of non-punishment of THB victims, compelled to be involved in unlawful activities, would significantly contribute to a more effective implementation of the Convention. Furthermore, the inclusion of action against trafficking in human beings into the competences of the Government Council for Human Rights, National Minorities and Gender Equality could be beneficial for advancing the human rights-based approach to combating THB.

151. GRETA invites the Slovak authorities to keep it regularly informed of developments as regards the implementation of the Council of Europe Anti-Trafficking Convention and looks forward to continuing its good co-operation with the Slovak Government for achieving the purposes of this Convention.

Appendix I: List of GRETA's proposals

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

1. GRETA urges the Slovak authorities to:
 - review the national legislation with a view to ensuring that all aspects of action against THB, including the key definitions and measures established by the Convention, are included in a comprehensive manner;
 - develop the institutional framework for action against THB in order to achieve a more active and effective involvement of all governmental bodies with responsibilities relevant to prevention of THB and protecting the rights of victims;
 - review the organisational and administrative arrangements for the functioning of the Expert Group for the Area of the Fight against Trafficking in Human Beings with a view to ensuring that it has:
 - sufficient authority to implement the decisions falling within its competence;
 - the necessary financial and human resources to ensure its effective functioning, including co-ordination of all national actors and actions in the field of THB.
2. GRETA considers that the selection procedure of NGOs for membership in the Expert Group should be more transparent and should include, at a minimum, information about the indicators for evaluating NGO's experience in the field of action against THB, as well as about the roles and responsibilities of the NGOs within the Expert Group. All interested NGOs should have the possibility to apply for membership in the Expert Group, provided they meet the established criteria.
3. GRETA also invites the Slovak authorities to explore further possibilities for international co-operation in the field of prevention of THB, and the provision of protection and assistance to its victims.

Measures aimed to prevent trafficking in human beings

4. GRETA considers that the Slovak authorities should continue to devise and implement information and awareness-raising campaigns aimed at preventing THB, which are targeted at specific groups vulnerable to THB identified through prior research. It is important that the measures go beyond the "criminal law" understanding of prevention of THB and aim at creating sufficient awareness among people enabling them to make well-informed decisions concerning employment or migration offers. The authorities should also ensure that necessary funding is available for the implementation of information and awareness-raising campaigns.
5. GRETA encourages the Slovak authorities to set out and implement systematic and thorough research policy concerning THB and its changing trends, which is key to a well-informed and sustainable THB prevention policy.
6. GRETA urges the Slovak authorities to introduce a comprehensive and coherent data collection mechanism that would make it possible to share information among the main actors in the fight against THB, while respecting the rights of data subjects to personal data protection. Statistical data should be disaggregated (into gender, age, type of exploitation, etc.) and its collection should be

designed in a way that enables the authorities to determine the scale of the problem and to identify the most appropriate measures to be taken with regard to groups affected by THB and forms of THB.

7. GRETA considers that more systematic and robust economic, social and educational measures should be taken by the Slovak authorities vis-à-vis groups vulnerable to THB. These measures should be based on the identified structural causes of THB (economic and social conditions, poverty, inadequate education, absence of employment opportunities, etc.) and should consist of actions aiming to eliminate these causes.

8. GRETA considers that measures to discourage demand for services that may be the result of any form of exploitation for which THB is taking place are an important preventive tool and urges the Slovak authorities to start implementing such measures as soon as possible.

9. GRETA considers that the Slovak authorities should take further steps to enhance the capacity of the relevant bodies to identify victims of THB when carrying out immigration control. To this end, the presence of officers specially trained to detect and identify victims of THB should be ensured at all times in immigration control activities, including within the National Unit to Combat Illegal Migration.

Identification of victims of THB

10. GRETA urges the Slovak authorities to set out the procedures relating to the identification of child victims of THB, both among Slovak nationals and foreign nationals who could be victims of THB, including any possible role of the authorities responsible for child protection.

11. GRETA urges the Slovak authorities to continue taking steps to ensure that the identification of victims of THB be improved, in particular by setting up a coherent national mechanism for the identification and referral of victims of THB and by designating a competent authority responsible for collecting information and ensuring the uniformity and accuracy of the identification of victims of THB.

12. In light of the above GRETA urges the Slovak authorities to:

- take practical measures to strengthen the capacity of the border Police and other competent authorities to identify possible victims of THB upon their entry on the territory of the Slovak Republic and refer them to the relevant services for protection and assistance to victims of THB;
- adopt a proactive approach to the identification of victims of trafficking for the purpose of labour exploitation by stepping up visits by labour inspectors and the Police to work sites (e.g. agricultural and construction sites) commonly employing migrant workers and by developing and using indicators to identify victims of THB;
- secure the identification of foreign victims of THB held in detention centres prior to their deportation, for instance by giving access to such centres to specialised NGOs and enabling detained irregular migrants to have access to legal assistance;
- ensure that identified victims of THB are duly referred for assistance and are informed of their rights and of the procedures under which they can seek protection, in a language they understand.

Status and rights of a victim of THB

13. GRETA considers that the Slovak authorities should ensure that victims of THB have access to the rights set out in the Convention and are fully informed about these rights.

Assistance and protection measures for victims of THB

14. GRETA considers that the Slovak authorities should take further steps to:

- ensure that the protection and assistance measures provided to victims of THB in accordance with the Convention are based on a professional and objective evaluation of the victim's needs and are provided to all victims of THB, irrespective of their nationality and residence status;
- ensure that assistance and protection measures are provided by qualified professionals, in particular as regards social, medical and legal assistance;
- monitor the effectiveness and quality of the assistance and protection measures, including the reintegration of victims of THB into the society to avoid their re-trafficking.

Recovery and reflection period

15. GRETA urges the Slovak authorities to take legislative and practical measures to introduce a recovery and reflection period for victims of THB as provided for in Article 13 of the Convention. The recovery and reflection period should, *inter alia* entitle victims to the assistance and protection measures contained in Articles 12(1) and 12(2) of the Convention.

Residence permits

16. GRETA considers that the Slovak authorities should set out the specific requirements for victims of THB to obtain residence permits and ensure that potential victims of THB are informed of these requirements.

Compensation

17. GRETA urges the Slovak authorities to take the necessary legislative and practical measures to ensure that compensation is made available to all victims of THB, irrespective of their nationality and residence status. In deciding the compensation arrangements the Slovak Government should take into account the relevant provisions of the European Convention on the Compensation of Victims of Violent Crimes (to which the Slovak Republic is Party) and Recommendation Rec(2006)8 of the Committee of Ministers to member states on assistance to crime victims.

Repatriation and return of victims of THB

18. GRETA considers that the Slovak authorities should step up their efforts to reintegrate victims of THB into society. In particular, the authorities should devise specific programmes aiming at the reintegration of victims of THB into the labour market and/or education system and be able to verify the results of these programmes.

Substantive criminal law, investigation, prosecution and procedural law

19. GRETA considers that the Slovak authorities should adopt all necessary measures to provide for the possibility for the Slovak courts to take into account convictions of courts of all Parties to the Council of Europe Anti-Trafficking Convention when determining penalties for THB offences.

20. GRETA urges the Slovak authorities to review the legislation in order to fully reflect the substantive provisions of the Convention, in particular as regards the establishment of criminal offences for conducts related to travel and identity documents and committed for the purpose of enabling THB.

21. GRETA urges the Slovak authorities to introduce in its legislation a provision concerning the non-punishment of victims of THB who have been compelled to be involved in unlawful activities due to their trafficking situation.

22. GRETA urges the Slovak Government to adopt all necessary legislative and practical measures to ensure that victims of THB and witnesses are given the necessary protection and assistance as required under Articles 28 and 30 of the Convention. For this purpose, it is of fundamental importance that the Police, prosecutors and judges are adequately trained and made aware of the particular sensitivity and vulnerability of THB victims, especially minors.

Appendix II: List of the public authorities, NGOs and international organisations with which GRETA held consultations

Public authorities

- Ministry of the Interior
- Ministry of Justice
- Ministry of Finance
- Ministry of Labour, Social Affairs and Family
- Ministry of Health
- Ministry of Foreign Affairs
- Ministry of Education
- Office of the Government
- General Prosecutor's Office
- Office of the Plenipotentiary for the Roma Communities
- Local Government of Bratislava

NGOs and other organisations

- Slovak Catholic Charity Caritas
- NGO Human Rights League
- Civic Association Naruc
- DOTYK – Slovak Crisis Centre
- IOM Bratislava

Government's comments

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

GRETA engaged in a dialogue with the authorities of the Slovak Republic 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 Slovak authorities on 7 July and invited them to submit any final comments within one month. The Slovak authorities' comments, submitted on 18 August 2011, are reproduced hereafter.

Director General
of the Office of the Ministry of Interior
of the Slovak Republic

Jozef Hlinka

Bratislava 18th August 2011
Reg. No.: KM-OPVA1-2011/002230-35
Annex: 1/13

Dear Executive Secretary,

I, as the contact person for monitoring of the implementation of the Council of Europe Convention on Fight against Trafficking in Human Beings, was delivered the Final Report prepared by the Group of Experts on Action against Trafficking in Human Beings GRETA. Comments of Slovak Republic on the Final Report attached hereto were prepared by the Office of the Minister of Interior of the Slovak Republic on the basis of documents obtained from involved entities. The Slovak Republic appreciates that most of Commentaries were included in the Draft Report. At the same time I would like to thank you for the acceptance of the later date for delivery of our comments.

Look forward for further cooperation.

Yours sincerely,

Jozef Hlinka

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

S t r a s b o u r g

Annex to Reg. No. KM-OPVA1-2011-/002230-35

1. The Slovak Republic continues to insist on inclusion of the original Commentary to Section 10 of the report where we request replacement of referring to the area of legal regulation related to trafficking in human beings from “social and legal protection of children” to “social-legal protection of children and social guardianship”. We also request insertion of another area coming under national legislation in the field of Fight against trafficking in human beings, i.e. “prevention of crime and other criminal social activity”. Via Act No. 583/2008 Coll. on Prevention of Crime and Other Criminal Social Activity and on amendment and supplementation of some acts the Information Centre on Fight against Trafficking in Human Beings and Crime Prevention was established fulfilling significant tasks in the field of prevention of trafficking in human beings and data collection on trafficking in human beings.

2. We add to Section 40 that the analysis will be prepared depending on fulfilment of the task within the National Program of Fight against Trafficking in Human Beings for 2011 – 2014 specified in clause 1.2.e) “Examination of current criminal law amendment related to determination of state of facts of criminal offences of trafficking in human beings and related offences, in particular Art. 179 Trafficking in Human Beings, Art. 180 a 181 Trafficking in Children and Art. 367 Procurement. Responsibility for fulfilment of the given task was imposed on the Ministry of Justice of the Slovak Republic in cooperation with the General Prosecutor's Office SR and the Ministry of Interior of the Slovak Republic with the fulfilment deadline on December 31, 2011. The Ministry of Interior of the Slovak Republic will inform GRETA group following the receipt of the analysis results and taking subsequent measures.

3. In Section 47, we object to the wording of the last sentence: “However, despite the existence of criteria for the participation of NGOs in the work of the Expert Group, their roles and responsibilities within the Group, as well as the actual selection procedure, are not clear.”.

The existence and rules of operation of the Expert Group on Fight against Trafficking in Human Beings are confirmed in the internal regulation of the Ministry of Interior of the Slovak Republic being the Order of the Minister of the Slovak Republic No. 22/2008 on establishment of the Expert Group for the Field of Fight against Trafficking in Human Being as amended by Order of the Ministry of Interior of the Slovak Republic No. 50/2011. The statute of the concerned Expert Group is the Annex to the given order and in Art. 3 it specifies its members and their tasks. In Art. 3 par. 1 letter u), it is provided that the Expert Group consists of “representatives of selected non-governmental organizations”. Tasks of members are determined in Art. 3 par. 6 as follows:

“(6) Member of the Expert Group shall

- a) participate at negotiations and voting of the Expert Group;
- b) presents comments, prepares opinions and proposals on issues discussed by Expert Group;
- c) fulfil tasks resulting from conclusions of Expert Group negotiations;
- d) ensure his/her representation at negotiations and voting of the Expert Group;
- e) fulfil tasks in accordance with orders given by the chairman of the Expert Group.”

These tasks shall apply to all members of the Expert Group whether it is the representative of the state administration or non-governmental organization.

In addition to information mentioned above, the Expert Group may create additional bodies consisting of professional consultants representing different professions in accordance with Art. 4 of the concerned order.

Criteria and process of NGO selection has already been clarified to GRETA Group in questionnaire responses as well as in the opinion of the Slovak Republic on the draft report. The following criteria are concerned:

- experience of the concerned non-governmental organization in the field of Fight against trafficking in human beings and related areas;
- cooperation or networking with other non-governmental organizations;
- cooperation with the Ministry of Interior of the Slovak Republic in fulfilment of tasks within the National Reference Framework.

As for the criteria of cooperation of the Ministry of Interior of the Slovak Republic with non-governmental organizations, conditions of their selection are strictly stipulated and categorically determined in the call for lodging requests for grants to be provided for projects focusing on prevention of trafficking in

human beings or in conditions of the selection procedure within public procurement to ensure the Programme of Support and Protection of Victims of Trafficking in Human Beings.

As follows from the above mentioned, representatives of non-governmental organizations with long-term experience in dealing with the issue of action on trafficking in human beings and experts aimed at various other fields closely related to this issue participate in the work of the Expert Group.

4. As for the Section 48, the original commentary to Section 44 of the draft report applies. Rules of Procedure of the Expert Group for the field of Fight against Trafficking in Human Beings provide that: "The Expert Group shall hold meetings on as-needed basis not less, however, than once a year." The Expert Group as an initiative, advisory and coordinating body of the National Coordinator in the field of Fight against Trafficking in Human Beings deals with the issue of Fight against trafficking in human beings on a strategic level. As results from existing experience, this frequency of Expert Group meetings is sufficient in practice to take any substantial steps approved by the National Coordinator. For this reason, too, there were multidisciplinary working groups established within the Expert Group to address "ad hoc" problems that occurred, one to assist victims directly and the second to prevent trafficking, which both hold meetings not on a strategic but working level when requested by any of its members and take specific measures.

As for the statement that: "In addition, the roles and tasks of the members of the Expert Group and of the bodies they represent are not clearly defined.", we refer to the comment to the previous Section of the Report where tasks of Expert Group members are provided.

We also disagree with the statement that the responsibility of public bodies towards the Expert Group in implementation of their specific tasks in action on trafficking in human beings is not clear. As we have previously mentioned, the National Programme of Fight against Trafficking in Human Beings for 2011-2014 is adopted by the decree of the government of the Slovak Republic and thus the fulfilment of its task is binding for all participating entities. At the same time these entities are represented also in Expert Group. On the basis of this connection of respective entities to the Expert Group tasks and assignments of members are unambiguously defined and these tasks and assignments are specified by material competence of state bodies and other participating institutions in addition to the Rules of Procedure of the Expert Group.

5. As for the recommendation specified in Section 52 we notify the GRETA Group again that the National Programme of Fight against Trafficking in Human Beings for 2011 to 2014 included also task 1.2. a) "Examination of the need to adopt complex legal standard adjusting the action on Trafficking in Human Beings in accordance with the definition of a victim of trafficking provided in the Council of Europe Convention on Fight against Trafficking in Human Beings". When the need to adopt complex legal standard is found out as a result of the complex analysis of current status of the adjustment of Fight against trafficking in human beings, a draft bill on Fight against trafficking will be prepared which will include conditions of cooperation of respective government and non-government institutions in fighting against trafficking in human beings, prevention and help to victims of trafficking in addition to the definition of "trafficking in human beings" and "victim of trafficking". As for the operation of the Expert Group we point out again that with respect to the fact that its operation is covered by the National Coordinator who is the state secretary of the Ministry of Interior of the Slovak Republic appointed by the Minister of Interior of the Slovak Republic, decisions of the Expert Group are binding for all its members and thus for participating departments, offices and third sector organizations. As for financial and human resources to ensure efficient operation of the group, the staff of the Office of the Minister of Interior of the Slovak Republic was extended by 5 more employees located at the Information Centre for the Fight against Trafficking in Human Beings and Crime Prevention in Košice.

6. As for the recommendation in Section 53 we state that criteria for inclusion of non-governmental organizations in Expert Group are clearly specified. GRETA Group has already been notified of these criteria in responses of the Slovak Republic to the questionnaire.

The following criteria are concerned in particular:

- experience of the concerned non-governmental organization in the field of Fight against trafficking in human beings and related areas;
- cooperation or networking with other non-governmental organizations;
- cooperation with the Ministry of Interior of the Slovak Republic in fulfilment of tasks within the National Reference Framework.

As we have already mentioned in the commentary to Section 47, in relation to the criteria of cooperation of the Ministry of Interior of the Slovak Republic with non-governmental organizations, conditions of their selection are strictly stipulated and categorically determined in the call for lodging requests for grants to be provided for implementation of projects focusing on prevention of trafficking in human beings and at the same time in conditions of the selection procedure within the public procurement to ensure the Program of Support and Protection of Victims of Trafficking in Human Beings. Selection of non-governmental organizations for cooperation is thus governed by strict rules of the national legal regulation of public procurement.

It is also necessary to mention the fact that no organization has showed its interest in participation in the Expert Group or multidisciplinary working groups focusing on prevention and help to victims of trafficking in human beings.

7. As for the recommendation in section 54 of the Report we provide that the Slovak Republic intensively participates in international cooperation either in the field of international cooperation or help and protection of victims of trafficking in human beings within the extent of its personnel and financial possibilities. At the same time, we add the information that by the end of 2010 the Slovak Republic joined the regional initiative “Austria and neighbouring countries - prevention and suppression of all forms of trafficking in women: development of transnational co-ordination and co-operation; development and strengthening of networks and partnerships with third countries”.

8. As for the Section 59 we state that the Slovak Republic is currently working to launch a new information campaign on prevention of trafficking in human beings focused especially on prevention of forced labour. The concerned campaign is implemented within the project “Prevention and Extended Harmonized Collection System of data on Trafficking in Human Beings”. The objective of the campaign is to inform the public on risks related to making uninformed decisions in case of accepting job offers or migration. The campaign is connected with the promotion of the National Help Line for victims of trafficking in human beings 0800 800 818 where callers may get the preventive information on job offers related especially to travelling abroad as well as the information on possibilities of help if the person became the victim of trafficking in human beings.

9. As for the recommendation given in Section 63 we state that at present the Slovak Republic has a complex and coherent mechanism built for collection of data on victims of trafficking in human beings and also traffickers.

On national level, collection of data on trafficking in human beings is handled pursuant to regulation of the Minister of Interior No. 170/2010 amending and supplementing the Minister of Interior of the Slovak Republic No. 47/2008 on ensuring the Programme of Support and Protection of Child Victims of Trafficking in Human Beings. Annex No. 4 to the above mentioned regulation is a Table with the set of harmonized indicators/variables on victims included in the Programme of Support and protection of Children. This table is processed at the Information Centre for the Fight against Trafficking in Human Beings and Crime Prevention in Košice with much wider scope of indicators than recommended by GRETA Group. The extent and content of data in the table fully correspond with the criteria stipulated in the manual for collection of data on trafficking in human beings as one of the outputs of the pilot project titled: “Data Collection and Harmonized Information System Management (DCMI-EU)”. The Slovak Republic has participated in implementation this project as a partner since 2008.

Data on traffickers in human beings are collected in the Slovak Republic in compliance with the regulation of the President of the Police Force No. 16/2011 on the Procedure of the Criminal Investigation Department Service in the Field of Fight against Trafficking in Human Beings. According to this regulation, all relevant data are collected not only on offenders but also on victims not included in the Programme of Support and Protection against Trafficking in Human Beings but they appear in criminal proceedings as injured.

The Information Centre collects data on offenders and victims (whether included or not in the Programme of Support and Protection of Victims) and performs victim and trafficker typology on their basis. This unique data collection and evaluation method enables to specify the extent of the issue of trafficking in human beings in the Slovak Republic and identify the best measures to eliminate the same.

The Slovak Republic strives to simplify already existing mechanism of data collection via implementation of the project called: “Prevention and Extended Harmonized System of Collection of Data on Trafficking in Human Beings”. The purpose of this project is to apply the software developed within already

mentioned pilot project “DCMI-EU”. Implementation of the project will provide for systematic, coordinated, and harmonized collection of data on trafficking in human beings by means of software.

Moreover, the task to create the working group to examine possibilities of interconnection of registration and statistical systems of the police, Prosecutor's office and justice by the end of 2011 was set in the National Programme of Fight against Trafficking in Human Beings for 2011-2014 in order to absolutely align statistical data registered within respective stages of prosecution for trafficking in human beings. Subsequently, analysis of the current status and conditions of interconnection of statistical systems of concerned entities will be prepared. All these steps are directed towards unification of statistical systems by the end of 2012.

With respect to above mentioned we consider that the Slovak Republic has a high-level mechanism built for collection of data on trafficking in human beings and by means of implementation of ongoing project it is able to share data on international level as well.

10. As for the request of the GRETA Group to complete Section 66 of the Report we state that this is the task given in Section 2.3 b) of the National Programme of the Fight against Trafficking in Human Beings for 2011 – 2014 directed and coordinated by the Ministry of Labour, Social Affairs, and Family of the Slovak Republic. The deadline of fulfilment of the specific activity within the given task “Support of Government and Programmes and Projects Aimed at Life Quality Improvement of the most Risky Groups of Population” is set on a “continuous” basis. Thus the Slovak Republic will be able to provide the GRETA Group with more complex information on measures taken only after the fulfilment of tasks within the National Programme of the Fight against Trafficking in Human Beings is evaluated for 2011.

11. As for the recommendation in Section 67 we state that the Slovak Republic considers establishing the working group that would review current economic, social, and educational measures and prepare potential recommendations to strengthen the same on the basis of identified structural reasons for trafficking. Based on analysis results of the social status of victims of trafficking in human beings who have been included in the Programme of Support and Protection of Victims of Trafficking in Human Beings do far, the most common social and economic reasons for trafficking in human beings include poverty, lack of opportunities for employment, or lack of education. It is not only factors related to trafficking in human beings but also a society-wide problem connected to current financial and economic crisis. Thus any steps directed to eliminate them will require long-term and complex attitude.

12. As for Section 69 of the Report we inform that currently, processing of the final report is under progress of science and research tasks which should be published in October 2011 on the occasion of EU Day of Fight against Trafficking in Human Beings. Results of research will be forwarded to GRETA Group by the Slovak Republic.

13. As for recommendation given in Section 70 of the Report, we add the information that the Ministry of Justice of the Slovak Republic will deal with consideration of issues related to criminal sanctions for the use of services of victims of trafficking in human beings pursuant to Art. 19 of the Convention by December 31, 2011 and subsequently GRETA Group will be informed on the result.

14. As for Section 72 of the report, we point out again that when a foreign national crosses borders of the Slovak Republic and he/she is caught by members of the Border and Alien' Police Office of Presidium of the Police Force, the foreign national is brought in the competent police department of the Police Force where his/her identity is checked pursuant to Art. 18 of Act No. 171/1993 Coll. on Police Force as amended where the policeman shall find out and verify the identity of the brought in person in MIGRA information system not later than 24 hours from the time he/she is brought in the competent police department and then the person is either released or apprehended, or hand over to other department for further dealing. But if it is suspected that a foreigner is a potential victim of trafficking in human beings, policemen of Border and Alien' Office of Presidium of Police Force are instructed to inform the International Office for Migration IOM immediately or DOTYK – Slovak Crisis Centre employees of which will assess if the person is a victim of trafficking in human beings on the basis of interview with the given person. If the person is a victim of trafficking in human beings the relevant proceedings is in progress with the given person pursuant to Art. 43 (Tolerated Residence) of Act No. 222/2010 – full wording of Act No. 48/2002 on Residence of Foreigners and on Amendment and Supplementation of certain acts.

We would like to draw your attention to the fact that currently there is a draft bill in the legislative process on the control of borders and residence of foreign nationals and on amendment and supplementation of some acts (hereinafter referred to as “draft bill”) submitted by the Ministry of Interior of the Slovak Republic. It is anticipated that it will become valid and effective on January 1, 2010. Subject-matter of the draft bill is to stipulated the competence of Police Force departments in ensuring the border control and in the field of foreign national residences; competences of public authority bodies in the field of visas, adjust conditions for foreigners crossing the outer border in the territory of the Slovak Republic, determine rights and duties of legal entities and natural persons as well as determination of the state of facts of administrative torts and offences in the field of border control and foreign national control. The draft bill refers to foreign nationals coming under the regime of Act No. 480/2002 Coll. on Asylum and on amendment and supplementation of some acts as amended unless stipulated otherwise by this act. When the draft bill becomes effective, relevant proceedings will be in progress pursuant to Art. 58 to Art. 61 adjusting conditions of tolerated residence granting pursuant to relevant rules of international law and European law in case of the victim of trafficking in human beings.

15. As for Section 73 of the Report, we strictly object to concerns expressed by the GRETA Group related to insufficient measures taken to prevent trafficking in human beings between the Slovak Republic and parties to the Schengen Convention. With reference to the above mentioned it cannot be stated that insufficient protection resulted from or implementation of measures for state protection was eliminated with prevention of trafficking in human beings in the Slovak Republic by cancelation of former outer borders between the Slovak Republic and countries of the Schengen area. The Slovak Republic performs activity focused on detecting crimes not only on outer border of the Schengen area but also inland and on inner borders of the Slovak Republic, of course. Although outer borders with neighbouring countries (Schengen area countries) were cancelled, these areas continue to be monitored and controlled. In border areas of the Slovak Republic, on former border crossings, there are so called “common contact work places” established where members of Police Force closely cooperate in identification of foreign nationals and control of foreign national residences but their activity focuses on dealing with the issue of trafficking in human beings. They were made familiar with this issue during trainings and we intend to continue with these trainings in future as well. Inland, the activity focused, inter alia, on trafficking in human beings is performed by members of Alien Police Service who are also retrained on the given issue on an ongoing basis.

On inner borders where no checks are performed, this activity is ensured especially by operative activity of policemen of the Border and Alien’ Office Police of the Presidium of the Police Force. All means used to detect victims of trafficking in human beings on outer borders will start to be used if inner border controls are renewed.

Further training activities related to identification of potential victims of trafficking in human beings are scheduled for members of Police Force with reference to fulfilment of tasks within the National Programme of Fight against Trafficking in Human Beings for 2011 to 2014.

16. We add the information to Section 74 of the Report that all members of Police Force included in respective departments of Border and Alien Police follow rules the content of which is related to the issue of trafficking in human beings in performance of service activities. One of activities includes organization of trainings in cooperation with the International Organization for Migration IOM where policemen are trained in the concerned issue especially in connection with identification of victims of trafficking in human beings and providing assistance to these persons. The purpose is to improve identification of victims of trafficking in human beings and respond to the situation in time and promptly. It is in full interest of Border and Alien’ Office Police of Presidium of Police Force to continue with these trainings and to provide sufficiently complete level of assistance to persons who this assistance is intended for.

17. In Section 80 of the report we make objection against the statement that: “At present, there are no special procedures for the referral of trafficked children to the social protection authorities.” Because the duty to notify the competent body of the social and legal protection and social guardianship rests with all bodies identifying child victim of trafficking in human beings since the care of child victims requires certain specific procedures.

To clarify, we also add the information that victims of trafficking in human beings whether major or minor shall be identified in the same but the difference is that with children entities participating in identification are extended by bodies of social and legal protection and social guardianship including facilities

for court decision (children's home, children's home for unaccompanied minors, crisis centre), accredited entities implementing measures of social and legal protection of children and social guardianship. It needs to be stressed that authorities of social and legal protection of children and social guardianship are forwarded information on victims of trafficking in human beings only when they are identified by entities intended for this purpose. Only if the child victim of trafficking in human beings is identified directly by the authority of social and legal protection of children and social guardianship the information is forwarded forthwith to the Police Force and International Organization for Migration IOM Bratislava.

18. In Section 81 of the Report, misleading information is provided. In its original opinion on Section 73 of the draft report prepared by GRETA Group, the Slovak Republic stated that "Unaccompanied minors are handed over to employees of the Office of Labour, Social Affairs, and Family following their detention and placed in Horné Orechové, Children's Home for unaccompanied minor or to other children's homes. They leave these facilities without any serious troubles several days later and they continue in their illegal migration. Some information for illustration – in September 2010, as many as 76 unaccompanied minors escaped from the Children's Home in Horné Orechové. It seems that traffickers target their attention at this group of migrants because following their detention by Police Force departments they can be easily guided in target destination after several days spent in children's homes." In Final Report, however, the information occurred that "in September 2010 as many as 76 unaccompanied minors escaped from the Children's Home in Horné Orechové and that there was serious concern that traffickers targeted this group and managed to continue their trafficking route.". Thus we request to replace the words "traffickers in human beings" with the word smugglers (facilitators) or omit the complete wording of the sentence: Although it is not possible to state with certainty whether any of these children were victims of trafficking, the Slovak Government has confirmed that in September 2010, as many as 76 unaccompanied minors escaped from the Children's Home in Horné Orechové and that there was serious concern that traffickers targeted this group and managed to continue their trafficking route.".

We also add the information to this section of the report that when a child leaves Children's Home without consent, Children's Home is obliged to notify the nearest Police Force department, parents of the child, court which ordered constitutional care, preliminary measure or imposed educational measure as well as to the authority of social and legal protection of children and social guardianship.

19. As for recommendation in Section 83 of the Report we state again that within the fulfilment of tasks of the National Programme of Fight against Trafficking in Human Beings for 2011 to 2014 the procedure of all entities interested shall be prepared by September 30, 2011 for identification and assistance to victims of trafficking in human beings targeting specifics of the procedure related to minor victims of trafficking in human beings and specifically in cases of victims who are foreign nationals in terms of fulfilment of tasks.

20. We strictly object to concerns of the GRETA Group expressed in Section 84 of the Report on potential deportation of illegal migrants without being identified as victims of trafficking in human beings. The foreigner who was brought in the department of the Police Force due to commencement of proceedings on administrative deportation shall always be duly examined, the hearing of the person is conducted, and as early as during this hearing it can be found out if the person is a victim of trafficking in human beings. Subsequently, the person is placed in the facility for foreigner apprehension, if the foreigner was not located in this facility during hearing, it can be found out if the person is a victim of trafficking in human beings because Police Force members were retrained for identification of victims of trafficking in human beings and they are able to find out that the person was a THB victim. During the whole process, foreigners may be accessed by non-governmental organizations, especially International Organization for Migration IOM which can also find out or confirm through its activity that the person is the victim of trafficking in human beings. As soon as the suspicion arises that the person is the victim of trafficking in human beings, the person is not deported from the territory of the Slovak Republic because the person is included in the Programme of Support and Protection of Victims of Trafficking in Human Beings and he/she if granted tolerated residence. If the victim of trafficking in human beings is minor he/she may not be deported in any case from the Slovak Republic.

21. As for recommendations formulated by GRETA Group in Section 89 of the Report, we insist on the comment that the Slovak Republic has already expressed in the draft report. In relation to capacity increase of Border Police and other authorities entitled to identify potential victims we state that Border Police Service members as well as other services of the Police Force participated in trainings aimed at identification of victims

of trafficking in human beings and other training activities are scheduled for this specific target group in accordance with fulfilment of tasks within the National Programme of Fight against Trafficking in Human Beings for 2011 to 2014.

As for identification of foreign THB victims in the Slovak Republic by Labour Inspectorates we added the information that in 2009, there were 9 employees of Labour Inspectorates trained and they perform THB victim identification within the scope of their activity. In the upcoming period, preventive measures will be enforced with respect to risks of trafficking in human beings and identification of victims of forced labour in terms of fulfilment of tasks of the National Programme of Fight against Trafficking in Human Beings for 2011 to 2014.

In the recommendation, it is further mentioned that detention facilities for foreigners shall be made available to non-governmental organizations performing identification and providing legal help. The Ministry of Interior of the Slovak Republic makes police detention units for foreigners together with asylum facilities available to several non-governmental organizations which periodically visit the same and carry out preventive activities in the form of various voluntary programmes and lectures for foreigners. In this field, the Ministry of Interior of the Slovak Republic cooperates especially with IOM, the International Organization for Migration, and with the Slovak Catholic Charity. In some facilities, however, non-governmental organizations such as Human Rights League have their permanent offices established.

With relation to awareness of foreign victims of trafficking in human beings it is necessary to mention that there are brochures placed and publicly available in all asylum facilities and police detention units for foreigners containing a set of questions in 15 language versions aimed at identification of victims of trafficking in human beings and providing basic information on the assistance possibility within the Programme of Support and Protection of Victims of Trafficking in Human Beings. The employees of the facilities above were instructed on the procedure for identification of victims of trafficking in human beings by the internal regulation of the Ministry of Interior of the Slovak Republic regulating the Programme above. If the victim is identified, he/she is handed over forthwith to the non-governmental organization for care and its residence in the territory of the Slovak Republic is legalized. In order to improve identification of foreign victims there were several trainings performed by the Ministry of Interior of the Slovak Republic as well as by IOM, the International Organization Migration.

Currently, foreigners are provided free legal assistance pursuant to legal regulations in force; in provisions of Art. 77 par. 7, 8, 9 of the draft bill on border control and foreigner residence and on amendment and supplementation of some acts, the scope of persons who are provided such help is extended.

22. The Slovak Republic objects to the recommendation provided in Section 93 of the Report which states that "Slovak authorities should ensure that THB victims can access rights stipulated in the Convention and are fully aware of these rights". We have provided the information to GRETA Group for several times on lots of various promotion material distributed by units of the Ministry of Interior of the Slovak Republic, Offices of Labour, Social Affairs and Family, consular offices of the Slovak Republic abroad, non-governmental organizations and other channels directly to victims with the information that these materials are issued in multiple languages. We have also notified of the fact that victims of trafficking in human beings are made aware of their rights also in person in case of different advice provided as a part of interviews conducted by departments of the Police Force, Ministry of Interior of the Slovak Republic or non-governmental organizations. The Slovak Republic considers that victims of trafficking in human beings are fully made available of the access to their rights which they are notified of in full extent on multiple occasions.

23. The Slovak Republic strictly objects to the statement provided in Section 99 of the Report specifying that: "...in most cases the needs of victims are evaluated solely on the basis of wishes expressed by victims themselves.". As already mentioned in commentary to Section 88 of the draft Report, the assistance is provided to victims based on individual plan of assistance prepared by non-governmental organization and individual needs of the victim not on the basis of its requirements or wishes. Since the assistance to victim is provided voluntarily and no one can be forced to use it, the victim may refuse some of proposed measures. Adequate form of assistance is always selected after common consultations of the victim and non-governmental organization. Thus the needs of the victim resulting from his/her current life situation are first not his/her wishes. Moreover, to ensure the Programme of Support and Protection of Victims of Trafficking in Human Beings the Ministry of Interior of the Slovak Republic cooperates only with non-governmental organizations

which proved professional capability, experience and are accredited to perform selected activities by competent state administration authorities.

24. As for Section 101, we add the information that in case of minor victims of trafficking in human beings children's home keeps in touch with and provides necessary consultancy in becoming independent to young adults with their consent also after the person leaves children's home.

25. As for Section 102 of the Report we state that the task of an independent expert evaluating the implementation of the Programme of Support and Protection of Victims of Trafficking in Human Beings will be in compliance with the National Programme of Fight against Trafficking in Human Beings for 2011 – 2014 to "Present reports on the status of fulfilment of the Programme of Support and Protection of Victims of Trafficking in Human Beings to the National Coordinator once a year.". Following the approval of these reports by the National Coordinator for the field of fight against trafficking in human beings these reports may be provided to GRETA Group by the Slovak Republic.

26. Once again the Slovak Republic makes a significant comment to the statement in Section 109 that it fails to distinguish between the period for recovery and permission for tolerated residence. Pursuant to Art. 6 par. 2 of the regulation of the Minister of Interior of the Slovak Republic on ensuring the Programme of Support and Protection of Victims of Trafficking in Human Beings as amended by regulation No. 170/2010, the complex care is provided to the victim who is a foreign national during the period for recovery which is 90 days long. During this period the foreign victim is entitled to a wide range of assistance services and assistance including the "possibility of legalization of his/her residence in the territory of the Slovak Republic" pursuant to Art. 7 par. 2 of the given regulation". It clearly follows from the above mentioned that it is the possibility of the residence legalization not a kind of condition for assistance provision. The foreigner with a legal residence in the territory of the Slovak Republic may also be included in the Programme so his/her residence will not need to be legalized. On the other hand, the situation may occur when the victim of trafficking in human beings residing in the territory of the Slovak Republic may be granted a tolerated residence illegally pursuant to Act on Residence of Foreign Nationals and the victim will refuse to join the Programme in spite of information on the possibility to use the assistance with the Programme of Support and Protection of Victims of Trafficking in Human Beings. It is because no one can be forced to use the assistance services. This does not mean, however, that the victim failed to be provided advice on other possibilities of assistance and organizations he/she may refer to if necessary.

27. The Slovak Republic strictly objects to the statement provided in Section 109 of the Report that: "... protective and supportive measures in accordance with regulations of the Slovak Republic may be provided only if the potential victim agrees to be included in the Programme of Support and Protection of THB Victims (i.e. the victim will be officially identified) which leads to conclusion that before making such decision potential THB victims have no access to any protective and supportive measures to which they are entitled in accordance with Art. 13 of Convention". The Slovak Republic points out again that tolerated residence is only means of legalization of residence of the victim of trafficking in human beings residing illegally in the territory of the Slovak Republic at the time of identification. The victim is automatically referred to the care of non-governmental organizations which will provide complex care to the victim during the 90-day period for recovery. If the victim decides to cooperate with law enforcement authorities following the recovery period, the period of care is extended by the time of re-integration throughout the whole period of criminal proceedings, i.e. by 90 days more as minimum. During this period, tolerated residence is extended for the foreign victim residing illegally in the territory of the Slovak Republic. If the foreign victim is interested in returning to his/her country of origin, further care is provided to him/her during the period of time of preparation for return to the country of origin following the recovery period.

However, the above mentioned facts will be dealt precisely in a new act on border control and residence of foreigners and on amendment and supplementations to some acts which distinguishes between the period for recovery and reflection amended in Art. 13 par. 1 and residence permit granting pursuant to Art. 14 par. 1. The period for recovery and reflection will be adjusted in Art. 58 par. 4 letter e) specifying that the period of not more than 90 days during which the third country national who is a victim of trafficking in human beings and not younger than 18 makes a decision whether to cooperate with law enforcement authorities in detection of crime related to trafficking in human beings shall be deemed to be the tolerated residence; this period will be

able to be extended by 30 days upon request of the person authorized by the Ministry of Interior of the Slovak Republic. Residence granting pursuant to Art. 14 will be dealt with in Art 58 par. 2 letter c).

28. As for section 113, we specify that no minor foreign national is deported in any case except for cases that would be in favour of a child. Convention on the Rights of a Child is respected in full extent. The ban to deport these persons is stipulated in Act No. 48/2002 Coll. on Residence of Foreigners as amended specifying that unaccompanied minors are placed to Children's Home for Unaccompanied Minors Horné Orechové where they are provided full assistance as soon as they are identified.

According to a new draft bill on border control and residence of foreign nationals and on amendments and supplementations of some acts unaccompanied minors will be allowed to obtain forms of residence other than tolerated which they are provided at present. According to the new act they will be able to obtain temporary residence permit or permanent residence permit without being forced to leave the territory of the Slovak Republic.

29. As for Section 115 we specify again that pursuant to Art. 43 par. 1 letter e) of Act No. 222/2010 – full wording of Act No. 48/2002 on Residence of Foreigners and on amendments and supplement to some acts, the police department will grant the tolerated residence permit to the foreigner who is a victim of crime related to trafficking in human beings if the person is not younger than 18. At the same time, law enforcement authority or the person authorized by the Ministry of Interior of the Slovak Republic will notify the foreigner of possibility and conditions for tolerated residence permit granting and of rights and duties resulting hereof.

No other specific requirements for foreign nationals – victims of trafficking in human beings – related to residence permit granting are determined at present in addition to declaration of the victim on being trafficked. The permit for tolerated residence shall be granted to THB victims as well as to other foreign nationals in accordance with the above-mentioned Art. 43 par. 1 of Act No. 222/2010 – full wording of Act No. 48/2002 on Residence of Foreigners and on amendment and supplementation of some acts.

In addition to the informed consent provided by the members of the Police Force as a part of granting a tolerated residence, THB victims who are foreign nationals shall be informed on their rights by means of multi-language information leaflets and brochures issued by the Ministry of Interior of the Slovak Republic on the Programme of Support and Protection of Victims of Trafficking in Human Beings.

30. We add to the recommendation of the GRETA Group specified in Section 120 that the National Programme of Fight against Trafficking in Human Beings for 2011-2014 incorporated task 4.4. “In accordance with international commitments of the Slovak Republic to review the possibility of compensation of victims of trafficking in human beings from profits of traffickers resulting from criminal activity.””

31. The Slovak Republic strictly disagrees with the two first sentences of section 125 where the GRETA Group expresses its concerns related to the fact that victims of trafficking in human beings coming from socially and economically disadvantaged areas will return to the environment causing those victims being trafficked following the completion of the Programme. Non-governmental organization providing assistance to the victim is not able to force the victim not to return to the environment the victim comes from, although the environment caused trafficking.

32. As for the recommendation in Section 126, we state again that the Slovak Republic incorporated the task related to ensuring continuity of reintegration programmes for victims of trafficking in human beings in the National Programme of Fight against Trafficking in Human Beings for 2011 to 2014; within this task not only the implementation of present model of reintegration should be continued but the model should be further improved.

33. As for the recommendation in Section 131, the Slovak Republic states again that the issue of taking foreign decisions into account will be the subject to examination during 2011 in connection with the transposition of the framework decision of EU Council decision 2008/675/SVV of July 24, 2008 on taking account of convictions in Member Countries of the European Union in the course of new criminal proceedings under the gestion of the Ministry of Interior. Draft bill which transposes marked framework decision is at the stage of preparation at present; when the act is adopted the court decision issued by other EU Member State will be taken into account (it will have the same legal effects) as if being the decision issued by the Slovak court in terms of legal consequences in penalization.

34. As for recommendation in Section 135 of the Report, we specify that the Slovak Republic will consider the issue of the criminal sanction for activity related to travel documents and identity documents in order to enable trafficking in human beings by December 31, 2011 and GRETA Group will be informed on the result in case of interest.

35. As for the recommendation in Section 139 of the Report, we state again that in accordance with the fulfilment of the National Programme of Fight against Trafficking in Human Beings for 2011 to 2014 current legal status of legislation on Fight against trafficking in human beings should be reviewed and subsequently measures should be taken to eliminate shortcomings identified.

In relation to non-punishment of THB victims we add that the Slovak Republic will implement in its legislation Article 8 “Non-prosecution of the victim or non-infliction of penalties against the victim” of the Directive of the European Parliament and Council 2011/36/EU on Preventing and Fight against Trafficking in Human Beings and on Protection of Victims of Trafficking in Human Beings which replaces the Council Framework Decision 2002/629/SVV stating that: “In accordance with basic principles of their jurisdictions, Member States will take measures necessary to ensure that their competent national bodies are entitled not to take legal steps or inflict the penalties against THB victims for their engagement in criminal activity if they were forced to be engaged in this criminal activity in direct connection the fact that they were exposed to any of acts mentioned in Article 2.”

In jurisdiction of the Slovak Republic, there have been no legal steps taken up to the present day to ensure non-punishability or non-infliction of penalties on THB victims for their engagement in criminal activity in case they were forced to commit this criminal activity in direct connection with THB. Nevertheless, there are mitigating circumstances determined in accordance with Art. 36 of the Criminal Code if the offender (in our case THB victim) commits an offence:

- e) under the pressure of dependency or subordination,
- f) by force of threat or pressure,
- g) as a consequence of emergency caused by person other than himself/herself,
- h) under the influence of desperate personal situation or family relations not caused by himself/herself,
- i) averting the attack or other danger or acting under circumstances that would exclude criminal activity if other conditions were met but the person acted without fully meeting the conditions of legitimate self-defence, extreme dearth, exercising right and duty or the consent of the aggrieved party, authorized use of arm, permitted risk or fulfilment of agent’s tasks,
- n) assisted in crime detection by the competent authority,
- o) contributed to the detection or conviction of an organized group, criminal group or terrorist group.

The provision on non-punishability of a victim or non-infliction of punishments against the THB victim contained in a new directive which the Slovak Republic shall be obliged to implement in its national jurisdiction by April 6, 2013, is issued in the Convention of the Council of Europe with the difference that in the Convention, the immunity of the victim is ensured in the extent that the victim was forced to engage in the criminal activity while in the Directive the scope is extended in case any illegal means are used the direct consequence of which is an engagement of the victim in trafficking.