



GRETA

Group of Experts on Action
against Trafficking in Human Beings

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

First evaluation round

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Preamble

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Executive summary

The Belgian authorities have taken a number of important measures to prevent and combat trafficking in human beings. The legislation on assistance for victims of trafficking has been developed since the 1990s with a view to guaranteeing a number of rights for trafficking victims. The criminalisation of trafficking in human beings, as defined in the Convention, became effective in 2005 and several amendments incorporated in 2013 have made it possible to clarify and extend the scope of this criminalisation.

The Inter-Departmental Co-ordination Unit for Action against Trafficking in Human Beings, which brings together all the relevant ministries and public bodies, supervises the implementation of the national anti-trafficking policy. It is tasked with implementing the second Action Plan against trafficking in human beings (2012-2014). In addition, anti-trafficking structures have been created, notably within the police, the Prosecutor's Office, the labour inspectorate services and the Foreigners' Office. Over the years, the Centre for Equal Opportunities and Opposition to Racism has played a vital role in action against trafficking in human beings, assessing and stimulating the efforts deployed. Further, non-governmental organisations (NGOs) are involved in devising and implementing the national anti-trafficking policy.

However, to guarantee a comprehensive and coherent approach to action against trafficking, GRETA believes that vertical and horizontal co-ordination between all the players concerned should be stepped up, *inter alia*, through the greater involvement of those working in the area of child protection. Furthermore, the Belgian authorities should pay increased attention to trafficking in children, particularly those who are of Roma origin and are exploited for the purpose of forced begging or the committing of offences. A comprehensive and coherent system of statistics on trafficking in human beings must also be devised and brought into operation.

Where the prevention of human trafficking is concerned, GRETA welcomes the steps taken by the Belgian authorities, in collaboration with NGOs, to raise awareness of the trafficking phenomenon among the public and certain professional groups, such as hospital staff, by means of information campaigns and specialised training. However, GRETA considers that the Belgian authorities should step up their efforts to discourage demand for services provided by victims of trafficking, regardless of the form of exploitation involved. Furthermore, the Belgian authorities should take social and economic initiatives aimed at making certain groups, such as foreign minors illegally present on the territory, less vulnerable to trafficking.

GRETA welcomes the efforts made by the Belgian authorities to apply a multidisciplinary approach to the identification and referral of victims of human trafficking on the basis of the 2008 Circular on multidisciplinary co-operation in respect of victims of trafficking, intended to apply above all to cases of foreign victims illegally present on the territory. However, shortcomings in the identification of victims of human trafficking persist. In particular, GRETA urges the Belgian authorities to take additional measures for the detection and referral of child victims of trafficking. It also considers that greater attention should be devoted to victims who are EU citizens or come from third countries and are legally present on Belgian territory, as well as to victims of Belgian nationality. The Belgian authorities should also step up training and information on human trafficking for front-line actors such as border staff and personnel working in closed centres for irregular migrants or judicial authorities that do not specialise in action against trafficking, particularly to prevent any confusion between victims of trafficking and petty offenders or migrant workers illegally present on the territory.

Assistance in terms of accommodation, legal aid, counselling and medical care for adult victims of trafficking is provided by three centres specialising in the reception of victims of trafficking, which are state-accredited NGOs. These centres also handle the provision of legal aid, counselling and medical care to child victims, who are however accommodated elsewhere, in centres managed by other NGOs which are better suited to that purpose. GRETA asks the Belgian authorities to allocate the necessary funding, to guarantee the quality of assistance services provided by NGOs and to remedy the problems relating to the system of assistance for child victims of trafficking.

In some cases, owing to a lack of knowledge of the referral mechanism set up for trafficking victims in Belgium, victims are not referred to the specialised reception centres and are not granted a recovery and reflection period in order to decide whether they wish to co-operate with the prosecution authorities. Belgian legislation provides for a system of temporary stay permits for victims of trafficking willing to make a statement to the judicial authorities, which may, subject to certain conditions, result in being granted an unlimited residence permit. However, although the obligation to co-operate is interpreted in a flexible manner in Belgium, it is proving to be problematic for child victims of trafficking, and suitable solutions should be found to enable them to benefit from a residence permit taking into account their best interests.

Trafficking victims who are EU citizens cannot benefit in practice from the assisted voluntary return programmes available in Belgium. Provision should be made for procedures providing assistance for repatriation tailored to the specific needs of such persons.

GRETA welcomes the determination demonstrated by the Belgian authorities to carry out proactive investigations and prosecute acts of trafficking. In particular, some companies have already been successfully prosecuted, alongside the physical persons running them, for acts of trafficking for the purpose of economic exploitation. However, GRETA considers it necessary to build greater knowledge and awareness of the phenomenon of trafficking among judges (both investigating judges and those judging cases in court) and other legal professionals. The legal provisions for compensation are successfully applied in certain cases but adjustments are still required to facilitate and guarantee effective access to compensation for trafficking victims, including those who leave Belgium. Finally, GRETA considers that the Belgian authorities should make full use of existing procedural measures aimed at protecting victims and witnesses, paying special attention to children.

I. Introduction

1. Belgium deposited the instrument of ratification of the Council of Europe Convention on Action against Trafficking in Human Beings (“the Convention”) on 27 April 2009. The Convention entered into force for Belgium on 1 August 2009.¹

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

3. In accordance with Article 38 of the Convention, GRETA proceeded with the examination of the measures taken by Belgium 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 Belgium on 31 January 2012. The deadline for replying to the questionnaire was 1 June 2012. Belgium submitted its reply on 15 June 2012.

4. In preparation of the present report, GRETA used the reply to the questionnaire by Belgium, other information collected by GRETA and information received from civil society. In addition, an evaluation visit to Belgium took place from 1 to 5 October 2012, carried out by the following delegation:

- Mr Nicolas Le Coz, President of GRETA;
- Ms Vessela Banova, member of GRETA;
- Ms Claudia Lam, Administrator at the Secretariat of the Council of Europe Convention on Action against Trafficking in Human Beings.

5. During the visit, the GRETA delegation held meetings with the State Secretary on Asylum, Immigration and Social Integration and representatives from relevant ministries, agencies, the Senate and competent independent authorities (see Appendix II). These meetings took place in a spirit of close co-operation.

6. The GRETA delegation held separate meetings with representatives of civil society working in the field of action against trafficking in human beings, as well as with relevant international organisations present in Belgium (see Appendix II). GRETA is grateful for the information provided by them.

7. Further, in the context of the visit, the GRETA delegation visited a reception centre and a shelter for victims of THB in Liège and a reception centre for victims of trafficking in Antwerp.

8. GRETA is grateful for the valuable assistance provided by the contact person appointed by the Belgian authorities, Mr Freddy Gazan, Advisor in the Crime Policy Department, Federal Public Department of Justice, and his collaborators Mr Jean-François Minet and Ms Barbara Vangierdegom.

9. The draft version of the present report was adopted by GRETA at its 16th meeting (11-15 March 2013) and was submitted to the Belgian authorities for comments on 5 April 2013. The authorities’ comments were received on 5 June 2013 and were taken into account by GRETA when drawing up its final evaluation report, which was adopted at GRETA’s 17th meeting (1-5 July 2013).

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

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

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

10. Belgium is primarily a destination country for victims of trafficking in human beings (THB) but also a transit country owing to its geographical location. The vast majority of the victims identified during the period 2009-2012 were foreigners, and one third of them came from European Union (EU) countries.² The main countries of origin of victims of trafficking in 2011 were, by order of importance: Morocco (25 from a total of 133 victims), Romania (22), Bulgaria (11) and India (10). In 2012, the main countries of origin were Romania (24 from a total of 143 victims), Morocco (19), Nigeria (17), China (11) and Bulgaria (10). In addition, four Belgian victims of internal trafficking were identified in 2011 and three in 2012.

11. From the information provided by the Belgian authorities it may be estimated that, on average, 130 trafficking victims were identified each year for the period 2009-2012. Over half of them were trafficked for the purpose of economic exploitation³, mainly in the sectors of catering, construction, cleaning services, horticulture, agriculture and manufacturing workshops. Victims of trafficking for the purpose of sexual exploitation constituted around 40% of trafficking victims. A few other cases of THB recorded in Belgium in recent years involved trafficking for the purpose of committing crimes or petty offences, forced begging and, to a lesser extent, organ removal. During the same period, over half of the victims receiving support from one of the specialised reception centres for victims of trafficking were men. In 2011, of the 133 new victims identified who received support from those centres⁴, 76 were male and 57 were female and in 2012, of the 143 new victims identified and assisted at the centres, 69 were male and 74 were female. The number of children identified is generally low: seven in 2011 and eight in 2012.

12. However, the aforementioned figures concern only detected cases of trafficking and victims identified as such by the authorities. They do not fully reflect the situation regarding trafficking in human beings in Belgium, in particular because of its fluctuating and clandestine nature. Later on in the report GRETA refers to cases where there are reasons to believe that certain forms of trafficking or certain categories of victims are not adequately detected (see paragraphs 134 to 137).

² The figures indicated in paragraphs 10 and 11 are mainly taken from the sections "données chiffrées et informations statistiques" of 2009, 2010 and 2011 annual reports on trafficking in and smuggling of human beings of the Centre for equal opportunities and opposition to racism, and available on the Centre's website: www.diversite.be.

³ This expression is commonly used in Belgium to refer to labour exploitation in conditions that are contrary to human dignity.

⁴ There are also victims of certain aggravated forms of smuggling of migrants who benefit from assistance and support at these centres (see paragraph 64).

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

a. Legal framework

13. At international level, in addition to the Council of Europe Convention on Action Against Trafficking in Human Beings, Belgium became Party to the United Nations Convention against Transnational Organised Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, (“Palermo Protocol”) in 2004. Belgium has also ratified the United Nations Convention on the Rights of the Child and its Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography, as well as the United Nations Convention on the Elimination of All forms of Discrimination against Women and its Optional Protocol. Furthermore, Belgium is Party to the International Labour Organisation (ILO) Conventions on Forced Labour (Nos. 29 and 105) and on the Worst Forms of Child Labour (No. 182). Furthermore, Belgium has acceded to several Council of Europe conventions which are relevant to action against trafficking⁵.

14. Belgium is bound by EU anti-trafficking legislation, in particular Directive 2011/36/EU of the European Parliament and of the Council of the European Union of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, 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 cooperate with the competent authorities, Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims and Directive 2012/29/EU of the European Parliament and of the Council of the European Union of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA of 15 March 2001 on the standing of victims in criminal proceedings.

15. Concerning internal legislation, it should above all be noted that, prior to a legislative amendment in 2005, the Law of 15 December 1980 on entry to the territory, stay, settlement and removal of foreigners contained a blanket provision, Article 77*bis*, which served in Belgian criminal law to cover the phenomena of trafficking in human beings, migrant smuggling and slum landlords⁶ without really distinguishing between them. That provision did not define trafficking in human beings within the meaning of the Convention; in particular, it omitted any reference to the purpose of exploitation. The Law of 10 August 2005 introduced three stand-alone offences in Belgian law. As a result, trafficking in human beings is defined and prohibited by Articles 433*quinquies* to 433*novies* of the Criminal Code. One major consequence has been that the criminalisation of “trafficking in human beings” is no longer restricted to cases involving foreign victims. In addition, Article 77*bis* of the aforementioned law has been amended so that it now refers exclusively to “smuggling of human beings” whose constituent elements are similar to those in the international definition of migrant smuggling. Finally, the offence of operating as a slum landlord is now defined and prohibited by Articles 433*decies* to 433*quinquiesdecies* of the Criminal Code. The Law of 29 April 2013, passed with a view to clarifying and extending the definition of trafficking in human beings, which was published on 23 July 2013, has amended Article 433*quinquies* of the Criminal Code (see paragraphs 50, 199 and 203).

⁵ In particular: the European Convention on Mutual Assistance in Criminal Matters and its additional protocols, the European Convention on Extradition, the European Convention on the Compensation of Victims of Violent Crimes, the Convention on Cybercrime and the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse.

⁶ An individual renting out housing at excessive rates, where tenants live in undignified and insalubrious conditions.

16. In addition to the Criminal Code, the following legal instruments are relevant to combating THB:

- the Law of 15 December 1980 on entry to the territory, stay, settlement and removal of foreigners, as amended by Law of 15 September 2006, and which enshrines in its Article 61/2 to 61/5 a specific residence permit procedure for victims of trafficking, together with the Royal Decree of 27 April 2007 amending the Royal Decree of 8 October 1981 on entry to the territory, stay, settlement and removal of foreigners, which supplements the aforementioned law;
- the Law of 13 April 1995 containing provisions for combating trafficking in human beings and smuggling of migrants, which envisages, *inter alia*, the submission of a biennial report by the Government to Parliament and the possibility for NGOs specialised in the anti-trafficking field to bring legal action;
- the Royal Decree of 16 May 2004 on action against smuggling of migrants and trafficking in human beings which defines the role of the different actors involved in combating trafficking in human beings;
- the Royal Decree of 18 April 2013 on the status of specialised reception centres for victims of trafficking in human beings and of certain aggravated forms of smuggling of migrants and the authorisation to bring legal action;
- the Directive of the Minister of Justice of 14 December 2006 on investigation and prosecution policy in cases of trafficking in human beings, together with Circular no. COL 1/2007 of 17 January 2007 of the Bench of Appeal Court Prosecutors General relating to investigations and prosecutions of acts of trafficking;
- the Circular of 26 September 2008 on implementing multidisciplinary co-operation in respect of victims of trafficking in human beings and/or certain aggravated forms of smuggling of migrants, signed by the Ministers of Justice; Employment, Social Affairs and Public Health; Finance and Reforms; Migration and Asylum Policy; Foreign Affairs; and the President and members of the Bench of Prosecutors General.

b. National Action Plans

17. In 2008 Belgium adopted its first Action Plan against trafficking in human beings for 2008-2011, focusing on the following aspects: assessment; information and communication; training; legislative initiatives; issuing of regulations and circulars; and statistics.

18. The new Action Plan against trafficking in human beings for 2012-2014⁷ (hereinafter Action Plan 2012-2014) was presented to the Council of Ministers on 22 June 2012 by the Minister of Justice and the State Secretary for Asylum and Migration. The plan was approved by the Inter-departmental Unit for Action against Trafficking in and Smuggling of Human Beings (see paragraph 19), which is also responsible for the follow-up of its implementation. It was developed in the light of assessments carried out by different bodies (see paragraphs 73 to 76). It sets out 19 actions in five areas. For instance, in the area of legislative initiatives, it provides for a review of anti-trafficking legislation with a view to supplementing and clarifying it. It also provides for measures aimed at prevention, awareness-raising and information, such as the setting up of an ad hoc group within the Inter-departmental Unit tasked with implementing projects in this field. In the area of victim protection, the Action Plan envisages devising simplified information tools for victim referral that are adapted to the specific features of each service concerned. The Action Plan also envisages updating the indicators of trafficking used in investigations and prosecutions and focusing on financial investigations analysing the cash-flows of human trafficking networks. Further, it sets the objective of reviewing the composition of the Inter-departmental Unit and finding solutions for optimum data collection enabling strategic analyses.

⁷

http://www.dsb-spc.be/doc/pdf/ACTIEPLAN_C_MH_FR_2012.pdf

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

- a. Inter-departmental Co-ordination Unit for Action against Trafficking in and Smuggling of Human Beings

19. The Royal Decree of 16 May 2004 on action against smuggling of and trafficking in human beings provides for the creation of an Inter-departmental Co-ordination Unit for Action against Trafficking in and Smuggling of Human Beings. The unit's main task is to co-ordinate action against trafficking at national level and in particular to contribute to the formulation of proposals.

20. The Inter-departmental Co-ordination Unit is chaired by the Federal Public Department of Justice, more specifically by the Minister of Justice or his/her representative. It is made up of representatives of the following entities:

- Prime Minister
- Minister of Justice
- Minister of the Interior
- Minister of Foreign Affairs
- Minister of Employment
- Minister of Social Affairs
- Minister of Social Integration
- Minister of Co-operation for Development
- each deputy Prime Minister who has no representative in another capacity
- Bench of Prosecutors General
- Federal Prosecutor's Office
- Crime Policy Department of the Federal Public Department of Justice
- Directorate general of Legislation, Freedoms and Fundamental Rights of the Federal Public Department of Justice
- Central Service for THB Affairs of the Federal Police
- State Security Service
- Foreigners' Office of the Federal Public Department of the Interior
- Social Legislation Inspectorate of the Federal Public Department of Employment, Labour and Social Dialogue
- Special Inspectorate of Taxes of the Federal Public Department of Finance
- Social Inspection Service of the Federal Public Department of Social Security
- Federal Public Department of Foreign Affairs, Foreign Trade and Co-operation for Development
- Centre for Equal Opportunities and Opposition to Racism (CECLR)
- Child Focus (see paragraph 42).

21. The Inter-departmental Unit meets two to three times a year, but a Bureau staffed by representatives of the main departments involved in action against trafficking in human beings handles the unit's day-to-day work and prepares and executes decisions, recommendations and initiatives. The CECLR provides the secretariat of the Bureau. The Bureau is chaired by the Crime Policy Department and includes as members representatives of the Foreigners' Office, the Central Service for THB Affairs of the Federal Police, the State Security Service, the Social Inspection Service of the Federal Public Department of Social Security, the Directorate General of Supervision of Social Legislation of the Federal Public Department of Employment, Labour and Social Dialogue, and the Federal Public Department of Foreign Affairs. The Government is considering the participation of the Bench of Prosecutors General (already members of the unit) as observers in the Bureau.

b. Crime Policy Department of the Federal Public Department of Justice

22. The Crime Policy Department has the task of assisting the Minister of Justice and the Bench of Prosecutors General in the framing of crime policy, including action against human trafficking. This Department reports on trends in crime and draws up proposals for steering crime policy, rationalising investigation and prosecution policy and harmonising prevention, repression and sentence enforcement policy. As stated in paragraph 21, in accordance with the Royal Decree of 16 May 2004, this department chairs the Bureau of the Inter-departmental Co-ordination Unit. Further, it is responsible for the annual assessment of the Directive of the Minister of Justice of 14 December 2006 on investigation and prosecution policy in cases of trafficking in human beings. It is also tasked with drawing up a biennial government report on action against trafficking in and smuggling of human beings in accordance with the Law of 13 April 1995 concerning provisions to criminalise trafficking in and smuggling of human beings (see paragraph 73).

c. Centre for Equal Opportunities and Opposition to Racism

23. The Centre for Equal Opportunities and Opposition to Racism (CECLR) is an autonomous public department operating in various spheres, including action against trafficking in and smuggling of human beings. In accordance with the Royal Decree of 16 May 2004, the CECLR is tasked with promoting, co-ordinating and following up anti-trafficking and anti-smuggling policy. It publishes an annual independent report assessing the development and results of action against THB, which is submitted to the Government and Parliament. According to the CECLR, in view of its aforementioned functions, the CECLR acts as the *de facto* "national rapporteur on THB". In addition, it is responsible for facilitating co-ordination and ensuring collaboration between the three reception centres specialising in assistance and support for victims of trafficking in human beings (see paragraph 39). Finally, the CECLR can take legal action in cases of human trafficking and smuggling of migrants. In order to fulfil its mission in the area of action against human trafficking, the CECLR has an anti-trafficking unit with a staff of three. The statute of the CECLR is currently being revised (see paragraph 69).

d. Public prosecution services

24. Pursuant to a Royal Decree of 1997, one of Belgium's five Prosecutors General, namely the one attached to Liège Appeal Court, has responsibility in the area of THB and acts as the contact person for questions concerning human trafficking within the public prosecution services, co-ordinating criminal law policy in this area.

25. In addition, a reference prosecutor for THB has been appointed at each Prosecutor's Office attached to an appeal court, crown prosecutor's office, labour law auditor general's office and labour law auditor's office.⁸ These prosecutors are in charge of directing and following THB cases and serve as contact persons for other stakeholders (e.g. judges, police officers, reception centres, Foreigners' Office).

⁸ Labour law auditors are prosecutors specialised in criminal labour law. Therefore, they can be responsible for prosecuting offences related to THB when they are connected to other offences of criminal labour law.

26. The Bench of Prosecutors General, which is tasked with the crime policy of the public prosecution services, set up a network of expertise on trafficking in and smuggling of human beings in 2001, seen as a priority area of crime policy. This network of expertise provides linkage between the reference prosecutors dealing with THB and smuggling of migrants, and also between them and other institutions who are concerned by action against THB and smuggling of migrants. The network consists of approximately 100 persons, including all of Belgium's reference prosecutors dealing with THB, a representative of the Crime Policy Department, a co-ordinator of statistical analysts and a representative of the legislation section of the Federal Public Department of Justice. The main stakeholders in action against trafficking (police, specialised reception centres, Foreigners' Office, etc.) are also involved in the network. The network of expertise should hold plenary meetings at least every two years and, in practice, meets almost every year. The network also operates in the form of thematic working groups.

27. The Prosecutor General attached to Liège Appeal Court is entrusted with the overall management of the network of expertise and is assisted by a "co-ordination team" whose main co-ordinator is an advocate general at the Liège Auditor General's Office. The co-ordination team itself is made up of the reference prosecutors of the five Prosecutor General's Offices, five Auditor General's Offices, the Federal Prosecutor's Office, one representative of the Crime Policy Department and one representative of the legislation section of the Federal Public Department of Justice, together with the President of the Council of Crown prosecutors and labour-related crime auditors. The co-ordination team meets three or four times a year.

28. The Federal Prosecutor's Office is competent for public prosecution throughout the territory for certain offences, including trafficking in human beings, where this is required for the correct administration of justice. Its competence is therefore subsidiary to that of the first-instance prosecution authorities. At national level, it plays a role of co-ordinator of public prosecution between the different actors (public prosecutors, investigating judges, police services) and designates the local prosecutor's office which is best placed to institute prosecution proceedings. On the international level, it facilitates co-operation in criminal law matters to strengthen the fight against transnational trafficking.

e. Federal police and local police

29. Since 1998, the federal police and the local police have jointly formed an integrated police force. The two authorities are autonomous but work in close collaboration and complement each other's efforts. The local police are tasked with all criminal and administrative policing missions on the territory of the precinct they police. The federal police carry out criminal and administrative policing missions in specialised areas or in cases that reach beyond local level. The federal police are also tasked with providing a wide range of support, operational or otherwise, to local police bodies. It is also the federal police which represent the Belgian police services in international police co-operation.

30. The Central Service for THB Affairs is part of the federal criminal investigative police, within the Federal Public Department of the Interior, and provides support to the federal and local police in action against trafficking in human beings, child pornography and smuggling of migrants. The support includes assistance on the ground, the forging of links between the different investigations, operational contacts with foreign agencies and centralised technical support for investigators dealing with trafficking and smuggling cases. In accordance with the Directive of the Minister of Justice of 14 December 2006, this central service carries out strategic and operational analyses of the nature and trends of human trafficking as well as the risk sectors. The service has the task of reporting to the Prosecutor General on trafficking matters. In addition, in each of the 27 judicial districts, there is a decentralised THB unit working full-time on trafficking. The size of the team varies, depending on the size of the district and the acts of trafficking observed there. There is also a staff member responsible for processing information on THB within each judicial district team of the federal police, which is responsible for centralising information gained from investigations.

31. There are also investigators specialising in trafficking in human beings within the local police, and in each of the 196 police precincts there is at least one officer who participates in periodic meetings concerning THB.

f. Labour Inspectorate Services

32. The Directorate General of Supervision of Social Legislation of the Federal Public Department of Employment, Labour and Social Dialogue and the Social Inspection Directorate General of the Federal Public Department of Social Security are two key stakeholders carrying out labour inspection missions in Belgium in all sectors of the economy, including domestic work.

33. The Directorate General of Supervision of Social Legislation has the task of ensuring policy compliance in the area of collective and individual labour relations through its information, advice, prevention and repression functions. It is organised on territorial lines, with 25 non-specialised directorates, two directorates running checks in the road transport sector and eight directorates responsible for checking on posted workers from other EU Member States.⁹ Each of the directorates has one or more inspectors trained in THB matters. Regular meetings are held to enable inspectors to exchange information and good practices.

34. The Social Inspection Directorate General has the task of supervising and ensuring the correct application of laws on social security and in particular of combating tax fraud and clandestine labour. It is organised on territorial lines, with nine regions. In each of these regions, there is a unit where one or more inspectors are specifically assigned to THB issues. At national level, there is a working group on trafficking in human beings. The co-ordinators of that group organise one to two meetings a year in order to exchange information and good practices as well as for the training of inspectors concerned by trafficking issues.

35. These two entities contribute to action against human trafficking by participating in co-ordination meetings organised in connection with the implementation of Circular No. COL 01/2007 relating to investigations and prosecutions of acts of trafficking and by carrying out targeted checks, in particular under the protocol on co-operation concerning sectors where there is a high risk of trafficking in human beings (see paragraph 223).

g. THB unit in the Foreigners' Office

36. The Foreigners' Office is responsible for questions relating to legislation on foreigners within the Federal Public Department of the Interior and in particular the issuing and withdrawal of residence permits. There is a THB unit within the minors and trafficking in human beings section (MINTEH) of the Foreigners' Office which examines and follows up the administrative files of persons eligible for protection afforded to victims of trafficking and grants a specific residence permit. This unit is the sole authority empowered to give instructions for the issuing of documents to persons granted trafficking victim status (see paragraph 163). Other sections of the Foreigners' Office also have occasion to work in the area of trafficking, notably the "research" section, which collects information, including on trafficking cases.

⁹ Workers who, for a limited period of time, exercise a work activity on the territory of a EU Member State other than the one where they normally work.

h. Federal Public Department of Foreign Affairs

37. There is a THB Section forming part of the Directorate General of Consular Affairs (DGC) in the Federal Public Department of Foreign Affairs. Its employees are specialised in action against trafficking and victim protection. The chief responsibility of this section is to ensure that diplomatic services and outposts work together to implement government policy in this field, particularly in the area of prevention and information exchange. It also contributes to Belgium's input in the activities of international organisations in this sphere. Furthermore, an expert in the "Immigration liaison officers" unit specialises in action against trafficking.

i. Non-governmental organisations

38. There are a number of non-governmental organisations (NGOs) in Belgium active in combating trafficking, which provide assistance to victims, organise training for the authorities, run public information campaigns and conduct research.

39. The three reception centres specialising in providing assistance and support for victims of trafficking in human beings¹⁰ are non-profit associations: Pag-Asa in Brussels, Payoke in Antwerp and Sūrya in Liège. These centres also actively participate in anti-trafficking awareness-raising and training initiatives in Belgium and elsewhere. The status of the three centres has recently been formalised by a Royal Decree (see paragraph 148).

40. There are also specific accommodation centres for unaccompanied foreign minors who are victims of trafficking in Belgium, which are also non-profit associations: Esperanto in Wallonia, Minor-Ndako in Brussels and Juna in Flanders.

41. Among the other NGOs active in action against trafficking, special mention should be made of the Samilia Foundation, which pursues the aim of combating this phenomenon and has been behind numerous awareness-raising and co-operation projects, particularly abroad, in this field. Also noteworthy is the role played by ECPAT-Belgium¹¹ which works in the sphere of trafficking in children, particularly for the purpose of sexual exploitation. Reference should also be made to the network of associations and institutions "Plateforme-Mineurs en Exil" which covers the questions of trafficked children, in particular in connection with protecting the interests of unaccompanied foreign minors.

42. The *Fondation pour Enfants Disparus et Sexuellement Exploités* (Foundation for missing and sexually exploited children) is a public utility foundation operating under the name "Child Focus". Its main role is to help find missing children, both in Belgium and abroad, and combat the sexual exploitation of minors. It follows up cases of foreign children victims of trafficking who have disappeared. It also takes part in awareness-raising activities and other action against trafficking in children for the purpose of sexual exploitation. For the time being, this NGO is the only one to have representative status within the Inter-departmental Unit, but is envisaged that the three specialised reception centres should in the future also be represented in the unit (see paragraph 65).

¹⁰ These centres provide assistance also to victims of aggravated forms of smuggling of migrants (see paragraph 64).

¹¹ End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes.

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

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

43. Article 1(1)(b) of the Convention establishes as one of its purposes the protection of the human rights of the victims of trafficking. Further, Article 5(3) includes the obligation for Parties to promote a human rights-based approach in the development, implementation and assessment of the policies and programmes to prevent THB. The Explanatory Report on the Convention states that the main added value of the Convention is its human rights perspective and focus on victim protection. In the same vein, the United Nations Recommended Principles and Guidelines on Human Rights and Human Trafficking emphasise that “the human rights of trafficked persons shall be at the centre of all efforts to prevent and combat trafficking and to protect, assist and provide redress to victims”¹².

44. THB constitutes an offence to the dignity and fundamental freedoms of the human being and thus a grave violation of human rights. GRETA emphasises the obligations of States to respect, fulfil and protect human rights, including by ensuring compliance by non-State actors, in accordance with the duty of due diligence. A State that fails to fulfil these obligations may, for instance, be held accountable for violations of the European Convention on Human Rights and Fundamental Freedoms (the ECHR). This has been confirmed by the European Court of Human Rights in its judgment in the case of *Rantsev v. Cyprus and Russia*, where the Court concluded that THB within the meaning of Article 3(a) of the Palermo Protocol and Article 4(a) of the Anti-Trafficking Convention, falls within the scope of Article 4 of the European Convention on Human Rights¹³ (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 trafficking¹⁴.

45. 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 trafficking are properly identified. It also involves measures to empower trafficked persons by enhancing their rights to adequate protection, assistance and redress, including recovery and rehabilitation, in a participatory and non-discriminatory framework, irrespective of their residency status. Further, measures to prevent THB should be taken in the field of socio-economic, labour and migration policies.

46. GRETA wishes to stress the need for States to also address THB as a form of violence against women and to take account of gender-specific types of exploitation, as well as the particular situation of child victims of trafficking, in line with the relevant international legal instruments¹⁵.

¹² 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>

¹³ *Rantsev v. Cyprus and Russia*, application No. 25965/04, judgment of 7 January 2010, ECHR 2010, paragraph 282.

¹⁴ See also *Siliadin v. France*, application No. 73316/01, judgment of 26 July 2005, ECHR 2005 VII; *C.N. and V. v. France*, application No. 67724/09, judgment of 11 October 2012; and *C.N. v. the UK*, application No. 4239/08, judgment of 13 November 2012.”

¹⁵ 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.

47. As far as the situation in Belgium is concerned, the preamble to the National Action Plan against trafficking in human beings for 2008-2011 states that “trafficking in human beings constitutes a violation of the individual's fundamental rights: the right to life, the rights to freedom, security and human dignity. Universal human rights enshrine the principle that no one may be held in slavery or servitude. Accordingly, action against trafficking in human beings is geared to the respect or restoration of those fundamental rights”. The Belgian authorities have stressed that, in Belgium, the criminalisation of trafficking in human beings takes into account that it is a serious violation of human dignity and a particularly serious offence. The European Convention on Human Rights forms part of Belgium's internal legal order. Concerning the status of the Convention on Action against Trafficking in Human Beings in Belgium's legal order, the Belgian authorities have indicated that its provisions have been transposed into Belgian law and that, to their knowledge, there have been no judicial decisions directly referring to the Convention.

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

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

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

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

50. Under Belgian law, Article 433*quinquies*, paragraph 1, of the Criminal Code, which was amended by the Law of 29 April 2013 (published on 23 July 2013), provides that:

“Trafficking in human beings is constituted by the act of recruiting, transporting, transferring, harbouring or receiving a person, or taking or transferring control exercised over that person,:

1° for the purpose of exploitation of prostitution or other forms of sexual exploitation;

2° for the purpose of exploitation of begging;

3° for the purpose of work or services in conditions contrary to human dignity;

4° for the purpose of organ removal in violation of the Law of 13 June 1986 on the removal and transplantation of organs, or removal of tissues or human corporal material in violation of the Law of 19 December 2008 concerning the procurement and use of human corporal material on the removal and transplantation of organs for medical or scientific research purposes;

5° or for the purpose of making that person commit a crime or misdemeanour against his or her will.

Except in the case covered in sub-paragraph 5, it is immaterial whether or not the person mentioned in sub-paragraph 1 consents to the envisaged or actual exploitation. (...)”.

51. GRETA notes that the actions mentioned in the Criminal Code corresponds to those in the definition given by the Convention, with the addition of taking or transferring control exercised over a person.

52. The offence of THB in Belgian law hinges on two constituent elements, namely the action and the purpose of exploitation. The Belgian authorities have stated that this is the result of a deliberate choice on the part of the Belgian legislator to focus on the effectiveness of criminal proceedings and the protection of victims. According to them, this approach made it easier to come up with the evidence required to convict the perpetrators of trafficking. On the other hand, some of the aggravating circumstances provided for in the case of trafficking offences are similar to the means provided for in the Convention, notably: abuse of authority; abuse of a person's situation of vulnerability resulting from an illegal or precarious administrative situation, their precarious welfare circumstances, their age, pregnancy, illness, infirmity, physical disability or mental impairment, leaving that person with no other real and acceptable choice than to submit to that abuse; and the use of fraudulent tactics, violence, threats or any other form of constraint. In practice, the courts frequently consider one of the means referred to by the Convention as an aggravating circumstance, particularly the abuse of a person's vulnerability (see paragraph 222).

53. GRETA notes that the means are not a constituent component of the definition of THB in the Belgian legislation, but are considered as aggravating circumstances. While acknowledging that this may contribute to making the prosecution of traffickers easier in terms of evidential requirements, GRETA stresses the need for the Belgian authorities to keep under review whether this may lead to confusion with other criminal offences, or to possible difficulties regarding mutual assistance in the anti-trafficking field with countries which have incorporated the means in their own definition of THB and as to the interpretation of Article 4(b) of the Convention concerning victim's consent.

54. GRETA further notes that some of the means referred to in Article 4 of the Convention, in particular "abduction" and "giving or receiving of payments or benefits to achieve the consent of a person having control over another person for the purpose of exploitation" are not included in the Criminal Code provisions relating to trafficking in human beings. The Belgian authorities have stated that in principle abduction implies the use of means such as violence, threats or constraint. Furthermore, the giving or receiving of payment are not listed as such but transferring control over a person is an action referred to in the definition of the crime. The Belgian authorities have also stated that it was planned to prepare a preliminary draft law incorporating various provisions with a view to including these missing means in the aggravating circumstances in order to get closer to the definition in the Convention. **GRETA would like to be kept informed of developments in this area.**

55. Regarding the component of the purpose of exploitation, GRETA notes that the offence of trafficking provided for in the Criminal Code refers to the notion of “work or services in conditions contrary to human dignity”. The Belgian authorities have stated that, according to the preparatory works on the Criminal Code, Article 433*quinquies* has a broader scope than the minimum obligation imposed by international instruments, which refer to forced labour or services, slavery or practices similar to slavery, and servitude. Appendix 1 to the Ministry of Justice Directive concerning investigation and prosecution in the area of trafficking in human beings seeks to provide some background explanation of the notion of putting a person to work in conditions contrary to human dignity, pointing out that this notion “is a type of exploitation which must be recorded by a body of evidence demonstrating either the enslavement or the degradation of a human being by the violation of their physical and mental faculties in such a manner as to be manifestly incompatible with human dignity”. It is pointed out in this appendix that “enslavement means the act of reducing a person to servitude, slavery or extreme dependency”. The notions of slavery and debt bondage are defined with reference to the Slavery Convention of 1926 and the Supplementary Convention on the abolition of slavery, the slave trade, and institutions and practices similar to slavery of 1956. GRETA welcomes the addition, via the aforementioned Law of 29 April 2013, of the notion of “services” alongside that of “work” in conditions contrary to human dignity.

56. Furthermore, GRETA notes with interest the recent modification of the definition of trafficking in human beings in the Criminal Code, which involved inserting a generic expression – “for the purposes of exploitation of prostitution or other forms of sexual exploitation” – to replace the previous wording which made it possible to repress trafficking only for the purposes of a limited number of forms of sexual exploitation, namely exploitation for debauchery or prostitution of others and, in the case of minors, the outraging of public decency by provoking, encouraging or facilitating the debauchery, corruption or prostitution of a minor to satisfy the desires of another person, as well as producing or distributing visual media showing child pornography.¹⁶ The Belgian authorities have stated that the definition had been modified in order to cover a whole set of forms of exploitation encountered in practice such as sexual slavery, participation in pornographic shows or the production of pornographic images involving adults.

57. GRETA notes the fact that, in addition to the purposes expressly mentioned by the Convention, Article 433*quinquies* of the Criminal Code relates to the exploitation of begging and the act of making a person commit a crime or misdemeanour against their will. The Belgian authorities have stated that the latter provision makes it possible, *inter alia*, to cover cases of trafficking for the purpose of drug trafficking or theft. The removal of tissues and human corporal material¹⁷ as well as the removal of organs was also provided for. On the other hand, the working group set up within the Federal Public Department of Justice as part of the revision of the definition of the crime of human trafficking concluded that the use of forced marriages or illegal adoption could be taken into account as actions transferring control and that it was not necessary to change the terms of criminalisation to cover trafficking for the purposes of these forms of exploitation.

58. With regard to the trafficking of children, the definition in the Criminal Code, which includes only the action and purpose as constituent elements of the offence of trafficking irrespective of the victim's age, is in line with the Convention. As noted in paragraph 200, the trafficking of a minor¹⁸ constitutes an aggravating circumstance.

59. GRETA notes that Article 433*quinquies* stipulates that, except in the specific case where exploitation entails making a person commit a crime or misdemeanour against their will, the consent of the victim to the envisaged or actual exploitation is immaterial.

¹⁶ These forms of sexual exploitation were previously covered by means of a reference in Article 433*quinquies*, para. 1, 1°, to Articles 379, 380, paras. 1 and 4, and 383*bis*, para. 1 of the Criminal Code, which prohibited these acts.

¹⁷ In the case of human corporal material, the addition was via the Law of 29 April 2013 amending Article 433*quinquies* of the Criminal Code.

¹⁸ Under Belgian law, a person aged under 18.

60. For further analysis of the definition of THB and related offences from a substantive criminal law perspective, see paragraphs 199-209.

ii. Definition of “victim of THB”

61. The Convention defines “victim of THB” as “any natural person who is subjected to THB as defined in Article 4 of the Convention”.

62. According to the Belgian authorities, a “victim of an offence” is defined as any person having suffered damage (pecuniary, non-pecuniary, bodily injury) resulting from a criminal offence. Victims of trafficking are afforded certain rights (reflection period, assistance, residence permit) triggered by their identification and resulting from the Law on entry to the territory, stay, settlement and removal of foreigners and the Circular of 26 September 2008 on the implementation of multidisciplinary co-operation concerning victims of human trafficking. These questions are analysed in greater detail in the sections focusing on measures to protect and promote the rights of victims in the present report.

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

i. Comprehensive approach and co-ordination

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

64. As pointed out in paragraph 15, since August 2005, “trafficking in human beings” and “smuggling of human beings” (which corresponds to the international definition of migrant smuggling) are criminalised in Belgium through distinct provisions. GRETA welcomes the important clarification made to Belgian law in 2005. It notes that, in Belgium, anti-trafficking policy is frequently associated with action against smuggling of migrants, with several instances tasked with tackling both phenomena (the Inter-departmental Unit, for example). Under Belgian law, victims of certain aggravated forms of smuggling of migrants benefit from a protection status similar to the one provided for victims of trafficking in human beings (see paragraph 154). The specialised centres assisting victims of trafficking also provide assistance to victims of aggravated forms of smuggling of migrants. It is true that two these phenomena may sometimes be linked. In particular, victims of migrant smuggling may, in some cases, become victims of trafficking once they have arrived in the destination country. The GRETA delegation observed that, generally speaking, the actors specialising in action against both these phenomena were aware of the differences and links between them. **GRETA considers that the Belgian authorities should continue to inform and raise awareness among the general public and the non-specialised departments involved in action against trafficking that may come into contact with trafficking victims as regards the scope of the definition of trafficking in human beings and in particular the difference and the links between trafficking and migrant smuggling.**

65. The Inter-departmental Co-ordination Unit for Action against Trafficking in and Smuggling of Human Beings has been behind numerous initiatives aimed at combating trafficking in human beings. Although the unit meets rarely, its Bureau ensures the smooth running of its activities. Only one NGO (Child Focus) has a representative within the unit. Even though the three associations tasked with providing support for victims of trafficking are invited to certain meetings of the Bureau, in general NGOs accommodating and supporting victims of trafficking are not really represented. The same applies to other NGOs involved in combating trafficking. The Action Plan 2012-2014 provides for the “formal integration of specialised reception centres in the inter-departmental co-ordination mechanism”. In January 2013, the Inter-departmental Co-ordination Unit agreed in principle on a representation of specialised reception centres and the text of the Royal Decree of 2004 will therefore be amended accordingly. **GRETA wishes to be kept informed of progress in this area.**

66. Concerning the investigation and prosecution of the offence of trafficking, Circular No. COL 01/2007 aims to make action better co-ordinated and provides for a number of measures to that end. These include periodical meetings between those involved in action against trafficking at the level of the 27 judicial districts, in principle four times a year. These meetings are attended by the reference person for THB questions within the public prosecutor's office of the judicial district concerned, the labour law auditors, the federal criminal investigation police, including the Central Service for THB Affairs, local police search services, services handling social inspections and social legislation inspections. The meetings provide an opportunity to take stock of the THB situation where the judicial district is concerned and to exchange information on dossiers in progress and checking operations to be carried out. However, although THB is considered to be one of the priority crime areas in the National Security Plan 2012-2015 implemented by the police, this does not appear to be sufficiently reflected at the level of local policing policy¹⁹, which may adversely affect the co-ordination of efforts against trafficking in human beings.

67. The Circular on multidisciplinary co-operation seeks to co-ordinate the identification and referral of victims of trafficking. Its main components are outlined below, in the sections covering “identification of victims of trafficking” and “assistance measures”. Since the circular was assessed as being too extensive and not practical enough, the Action Plan 2012-2014 envisages the drafting of simplified tools covering victim protection for those working on the ground. As regards assistance to victims, the level of co-ordination and collaboration between the three specialised reception centres under the umbrella of the CECLR is regarded as good by all those involved in action against trafficking.

68. The multidisciplinary approach to victim assistance and the prosecution of traffickers is generally regarded by governmental and non-governmental actors as an important aspect of the Belgian system for combating THB. GRETA believes that it is important that this multidisciplinary aspect be maintained and further strengthened, for example by involving certain non-specialised actors, such as those working in child protection, in action against THB.

69. GRETA notes the crucial role played by the CECLR over the years in action against trafficking in human beings in Belgium in terms of the assessment, stimulation and, to a certain extent, co-ordination of anti-trafficking efforts. At the same time, GRETA has been informed of the Agreement concluded between the Federal Government, the Regions and Communities on 20 July 2012 under which the CECLR is to be transformed in June 2013 into several institutions dealing with different issues. The Belgian authorities have stated that the Council of Ministers had approved a preliminary draft law at its second reading, aimed at transforming the current Centre for Equal Opportunities and Opposition to Racism into a Federal Centre for analysis of migratory flows, protection of foreigners' fundamental rights and action against trafficking in human beings. They have pointed out that there is an agreement on the allocation of resources, which would maintain the status quo for the funding of tasks relating to trafficking in human beings and the rights of foreigners.

¹⁹ The CECLR has called on mayors to focus more heavily on acts of trafficking in human beings at local level and ensure that they feature in zone-level security plans. See CECLR, Annual report on trafficking in and smuggling of human beings 2011, op. cit., p. 110.

70. All those involved in action against trafficking agree that the profile of trafficking victims has changed since the introduction of the protection framework for them. Today, over one-third of the victims are nationals of EU Member States. These persons may enjoy the same protection status as that provided for victims who are third-country nationals but they do not necessarily have the same needs, notably in the field of residence permit. Moreover, the care arrangements for unaccompanied foreign minors in Belgium, whether victims of trafficking or not, differ according to whether or not they are nationals of European Economic Area (EEA) countries, which may have serious ramifications for the care of children who are vulnerable to trafficking or victims of trafficking (see paragraph 173).

71. GRETA considers that trafficking for the purpose of exploitation of begging, notably affecting children of Roma origin from East European countries, is not adequately dealt with by the Belgian authorities, whether in the sphere of prevention and identification and protection of victims (see also paragraph 135) or in the area of prosecution of traffickers. There are also alleged cases involving the trafficking of persons of Roma origin, especially children, brought in from these countries to commit petty crimes. The Belgian authorities have referred to difficulties in tackling the networks of trafficking for the purposes of begging, prostitution and committing of petty offences. The CECLR has emphasised in its 2011 annual report that it had been unable to bring civil proceedings in such cases in recent years and that they were seldom prosecuted by the prosecutor's office. It would appear that, in practice, different cases involving organised begging have been dropped, since they were considered as time-consuming and not very likely to yield convictions²⁰.

72. There has been an increase in recent years in the number of persons identified as victims of trafficking for the purpose of economic exploitation but also a fall in the number of victims of sexual exploitation reported to the specialised reception centres. The reasons for this decline are not easy to establish but it is important to look into it, as several actors stressed that the fall in the number of victims reported does not necessarily reflect a fall in the number of actual victims. In addition, the number of child victims of trafficking identified in Belgium is low and probably does not reflect the real situation because of shortcomings in the identification of those children (see paragraph 134).

73. GRETA is pleased to note that the Belgian anti-trafficking policy is assessed on a regular basis. In particular, the anti-trafficking legislation places the government under obligation to report to Parliament every two years on the application of that legislation and on action against trafficking in human beings in general. This biennial report is prepared by the Crime Policy Department of the Federal Public Department of Justice. The last biennial report published was the Report of the Government on Action against Trafficking in Human 2009-2010.²¹

74. Furthermore, the Bench of Prosecutors General carries out regular assessments in respect of Circular No. COL 01/2007 via a report of the Crime Policy Department of the Federal Public Department of Justice. This assessment is published on the intranet of the public prosecution services but is not accessible to the general public as it contains information on investigations. The Belgian authorities have stated, however, that certain elements of the analysis may be communicated where relevant, as long as they are rendered non-identifiable.²² Finally, the Circular on multidisciplinary co-operation stipulates that it should be assessed within 24 months of its publication. That assessment was carried out and identified certain areas requiring improvement, which are covered in the Action Plan 2012-2014.

75. For its part, the CECLR publishes an independent annual report on trafficking in and smuggling of human beings²³ analysing, among other things, Belgium's legal and political framework for action against trafficking, trends in the phenomenon in Belgium and relevant Belgian case law. The annual report also sets out recommendations to the institutions concerned.

²⁰ CECLR, Annual report on trafficking in and smuggling of human beings 2011, op. cit., p. 98.

²¹ http://www.dsb-spc.be/doc/pdf/rapport_TEH_FR.pdf.

²² See in particular the summary of this evaluation drawn up in the Report of the Government on Action against Trafficking in Human Beings 2009-2010, p. 18 and following.

²³ The annual reports are available on the internet site of CECLR: www.diveriste.be/.

76. In addition, a working group on trafficking in human beings under the Senate Committee on interior and administrative affairs has published two reports taking stock of the situation of trafficking in human beings and action against it in Belgium²⁴.

77. In order to ensure that action against trafficking is comprehensive and coherent, GRETA considers that the Belgian authorities should:

- **ensure that the new body taking over from the CECLR has, as far as anti-trafficking action is concerned, the necessary autonomy, mandate and resources to continue fulfilling the role of stimulating and assessing anti-trafficking policy within the meaning of Article 29, paragraph 4, of the Convention, as well as of co-ordinating the provision of assistance to victims of trafficking;**
- **increase vertical and horizontal co-ordination between the different authorities involved in action against trafficking in human beings, including those responsible for the assistance and protection of victims of trafficking, particularly concerning children;**
- **ensure that more attention is paid to the issue of trafficking of children.**

ii. Training of relevant professionals

78. Belgium has a number of departments and officials specialising in action against human trafficking, as previously mentioned (paragraph 19 and following). Training in action against human trafficking is provided for this staff and also for front-line actors who do not specialise in this field. For example, a study day is organised, on the basis of Circular No. COL 1/2007, every two years by the Crime Policy Department in conjunction with the Network of expertise on trafficking in and smuggling of human beings for members of the judiciary and police officers dealing with this phenomenon as well as the members of the Bureau of the Inter-departmental Co-ordination Unit and the specialised reception centres. This study day gathers in general between 60 and 70 persons and aims at fostering exchanges of information and experience.

79. Insofar as the police is concerned, every year refresher courses are organised for police investigators specialising in trafficking in human beings, covering different subjects. Approximately 200 police officers have taken part in the last thematic training sessions (organised twice a year) in the area of THB. These training sessions are also open to reference prosecutors within the public prosecutor's office. In addition, investigators specialising in action against trafficking can take supplementary week-long theme-based training courses on trafficking organised by the National College of Investigation. There is also a basic module on trafficking for police officers who are not specialised in this field and start-of-career police officers. The Central Service for THB Affairs is devising a scheme in collaboration with the Federal Police Training Directorate to ensure that the basic training in each provincial police training college covers the problems of trafficking and detecting trafficking victims. The police website features a page on THB including links to all the tools (leaflets, brochures and manuals) on trafficking in human beings. The Central Service for THB Affairs produces on average every two months a restricted-access information bulletin specifically on trafficking in human beings, highlighting legal and other developments in this area, and publishes it on the site and mails it to a restricted list of recipients, as well as specialised prosecutors.

²⁴ Belgian Senate, "Report on trafficking in human beings prepared on behalf of the Committee on interior and administrative affairs by Mr CLAES", 4 May 2010, legislative document no. 4-1631/1, and "Report on trafficking in human beings prepared on behalf of the working group on trafficking in human beings by Caroline Désir", 27 March 2012, Belgian Senate, legislative document no. 5-1073/1.

80. In addition to the aforementioned training, which is also taken by members of the Prosecutor's Office, the public prosecutor's internet site, called Omptranet, contains a page dedicated to the network of expertise on trafficking in and smuggling of human beings. This internet site features a compilation of documents such as the federal police bulletin on THB, working papers, diary dates, legislation, minutes of meetings and references to relevant legal doctrine and case law.

81. A specific two-day training session was organised in January and February 2013 for prosecutors specialised in THB concerning the practical way of dealing with slum landlords and financial investigation techniques.

82. The Social Inspection Service of the Federal Public Department of Social Security organises theme-based training sessions on trafficking for its inspectors in line with current needs. Training sessions for inspectors coming into contact with problems of trafficking are organised every year. The last session to date covered document fraud and was organised in conjunction with the federal police. Another example was the training course in 2009 which focused on Circular No. COL 01/2007 and the definition of trafficking in human beings.

83. Furthermore, the Directorate General of Supervision of Social Legislation of the Federal Public Department of Employment, Labour and Social Dialogue organised a new training course in October 2012 for labour inspectors. Some 70 inspectors took part, the aim being to both update the knowledge of existing inspectors and inform new inspectors on the issue of trafficking.

84. The employees of the THB Section of the Federal Public Department of Foreign Affairs (DGC) and the expert specialising in trafficking in the "immigration-liaison officers" unit take part in outside training sessions such as those organised by the federal police. They also organise in-house training sessions for other staff members.

85. A training session was organised in October 2012 for social workers of the reception centre for unaccompanied foreign minors of Rixensart with a view to raising awareness of the staff of the fact that unaccompanied foreign minors accommodated in the centre may in some cases have been trafficking victims. The authorities have indicated that this first training programme has been evaluated and that it will be repeated in other centres, a fact that GRETA welcomes (see also paragraph 134). In parallel, simplified factsheets for social workers in these centres are being finalised and will be used as of the second half of 2013. These factsheets will also be adapted for legal guardians of unaccompanied foreign minors.

86. GRETA welcomes the efforts made by the Belgian authorities to train officials specialising in THB as well as non-specialised staff likely to come into contact with trafficking victims. **GRETA considers that the Belgian authorities should pursue and further increase these efforts, in particular concerning the initial training of police officers who are not specialised in THB, including those who are responsible for receiving complaints, taking into account the turn-over of staff in administrations. Future training programmes should be designed with a view to improving the knowledge and skills of relevant professionals which enable them to identify victims of trafficking, to assist and protect them, to facilitate compensation for victims and to secure convictions of traffickers** (see also paragraphs 138, 152 and 225).

iii. *Data collection and research*

87. The human rights-based approach to anti-trafficking policies advocated by the Convention requires adequate monitoring and evaluation. An essential element is the regular availability of comprehensive statistical information on both trends in human trafficking and the performance of the main actors in the fight against trafficking. The collation of data from different state institutions and NGOs raises concerns about data protection, especially when personal data are involved. International standards have been set for the collection, storage, transfer, compilation and dissemination of data. In order to ensure full compliance with these standards, Parties are expected to apply appropriate measures and techniques of data protection. An additional requirement for human rights-based anti-trafficking policies is the conduct of research and analysis with special attention to the rights and interests of victims.

88. In Belgium, there is currently no practice of collecting centralised and standardised data on trafficking in human beings. Each institution gathers information on the basis of its own remit (see also paragraph 220). The figures on trafficking published by the CECLR and used for its annual assessment are collected by the following bodies: the federal police, labour inspectorates, the Bench of Prosecutors General, the Foreigners' Office, the specialised reception centres and the Crime Policy Department²⁵.

89. The Centre for information and analysis in the field of smuggling of and trafficking in human beings (*Centre d'information et d'analyse en matière de trafic et traite des êtres humains* - CIATTEH) was instituted on the basis of the Royal Decree of 16 May 2004. It is defined as a computerised information network compiled from anonymous data sourced from different partners (members of the interdepartmental co-ordination unit). It was intended to fulfil the task of ensuring optimum flows of information between the different actors involved in action against trafficking. However, the CIATTEH is not currently operational, notably due to a lack of human and financial resources. Furthermore, the Belgian authorities have pointed out that the obligation to work with anonymous data meant that the centre could not cross-reference information or produce any strategic analysis at present. According to them, the only solution to this impasse would be to revise the Royal Decree of 16 May 2004. At the request of the Private Office of the Minister of Justice, activities regarding the CIATTEH have been resumed. Consultations are under way with the strategic analysts of the departments involved with a view to taking stock of the data available within the different departments and services. On the basis of that assessment and the available data, the aim will then be to develop an analysis framework for subsequent implementation. They will also look at which data are missing and would be useful.

90. At the beginning of 2012, the three specialised reception centres and the CECLR introduced an IT tool managing electronic files of victims of THB and called ELDORADO ("Elektronische Dossiers Rassemblement de Données") making it possible to centralise anonymised data on the THB cases followed up by the three centres and to produce a more elaborate analysis of trafficking in Belgium.

91. **GRETA considers that, for the purpose of devising, supervising and assessing anti-trafficking policies, the Belgian authorities should design and bring on stream a complete, coherent statistics system on trafficking in human beings, bringing together reliable statistical data sourced from all the key actors which can be broken down (by sex, age, type of exploitation, country of origin and/or destination, etc.). The introduction of this system should be accompanied by all necessary measures to ensure respect of the right of the persons concerned to personal data protection.**

²⁵ See, for example, CECLR, Annual report on trafficking in and smuggling of human beings 2011: numerical data and statistical information, p. 127 and following.

92. In the field of research, the CECLR has been producing in-depth analyses of selected issues for several years in its annual reports on trafficking in and smuggling of human beings. The topic studied in the 2011 annual report, for example, was the money linked to trafficking (cash-flows, laundering, welfare frauds, confiscation of assets and compensation for victims). The 2009 annual report focused on trafficking in human beings for the purpose of economic exploitation. Some studies on THB have also been produced by NGOs in recent years. Research was published in November 2008 on the protection of unaccompanied foreign minor victims of trafficking in and smuggling of human beings by the Interdisciplinary centre for children's rights, in collaboration with the "Minors in exile" platform. Finally, articles and research papers on Belgian legislation and case-law in the area of THB are regularly published.²⁶

93. GRETA invites the Belgian authorities to carry out and support research work on THB-related issues, the findings of which can assist the public authorities in devising future anti-trafficking measures. The areas where more in-depth research is necessary include the situation of children victims of trafficking from European countries, in particular Roma, trafficking for the purpose of exploitation of begging and internal trafficking in Belgium.

iv. International co-operation

94. The Convention requires Parties to co-operate with each other "to the widest extent possible" in order to prevent and combat THB, protect and assist victims, and investigate related criminal offences (Article 32).

95. The Law of 9 December 2004 on international mutual assistance in criminal matters governs requests for judicial assistance and joint investigation teams. In addition, Belgium has signed numerous treaties and bilateral agreements on international co-operation, which are applicable in the area of trafficking in human beings. The Circular on multidisciplinary co-operation stipulates that the prosecutor's office, the police and the labour inspectorates are to maintain regular contact with the judicial authorities, the police and the inspection services of the States concerned by acts of trafficking in Belgium through the appropriate channels (Eurojust, Europol, Interpol, Federal prosecutor's office, Central Service for THB Affairs of the Federal Police, Belgian liaison officers abroad). Furthermore, the federal police contributes to the Europol file on action against trafficking in human beings (AWF PHOENIX).

96. Two joint investigation teams (JITs) on THB were operating at the time of the GRETA delegation's visit to Belgium. In addition, the Belgian authorities have informed GRETA that, since then, three investigations managed by JITs on THB (respectively with France and the Netherlands, France, and the United Kingdom) had yielded results. Further, parallel ("mirror") investigations are often used, for example with Poland and France, as well as requests for mutual assistance with a view to hearing witnesses or victims who have already returned to their country, as well as more informal channels that sometimes allow for swifter action. The Federal Prosecutor's Office is tasked with facilitating international co-operation, including in the field of human trafficking, but until recently it did not consider this area as a priority (see paragraph 217). Nevertheless, there are protocols of co-operation with the Prosecutor's Offices of the Netherlands, Romania, Serbia, Albania, Republic of Moldova and Bulgaria. In particular the Federal Prosecutor's Office is co-operating with Romania, Austria and France under a project backed by the European Commission entitled "Stepping up action against forced begging: a multidisciplinary approach" which extends over two years (2012-2013).

²⁶ See for instance, J.P. Jacques, « Analyse : les victimes de la traite des êtres humains et la prostitution », collection CEPESS, December 2011.

97. There is an association of police chiefs in the Meuse-Rhin Euregion (NeBeDeAgPol) which does not have official status but pursues the aim of promoting transborder co-operation between the police of three Belgian provinces, one Dutch region and one German region. It seeks to facilitate the work of police officers on the ground partly through a centre for police co-operation called EPICC. Operating in this way, the association has facilitated joint initiatives aimed at combating trafficking in human beings for the purpose of economic exploitation in that geographical area²⁷.

98. Particular mention should be made of the co-operation established between Belgium and Brazil to prevent and combat trafficking in human beings for the purpose of economic exploitation (mainly in the construction industry). It was established following the identification of a number of Brazilian building workers who were victims of trafficking in Belgium. A co-operation project was set up in 2009, involving several partners in Brazil and Belgium (police, welfare inspectorate, Ministry of Foreign Affairs) as well as the IOM. The project included a prevention campaign aimed at vulnerable communities in Brazil, exchanges of information between the Belgian and Brazilian authorities, information sessions for the Brazilian NGOs in Belgium and a telephone line providing information in Portuguese on the possibilities of legal migration to Belgium. The project will enter a second phase to incorporate the possibility of voluntary return of the persons concerned including a programme of reintegration in Brazil. While it is difficult to evaluate this project's impact, a reduction has been observed in the identification of Brazilian workers falling victim to trafficking in Belgium. The authorities should nevertheless remain vigilant, particularly as there are signs that new channels may have been opened up involving the use of forged identity papers²⁸.

99. GRETA welcomes the international co-operation established by the Belgian authorities with a view to carrying out successful investigations and prosecutions against traffickers, in Belgium and abroad. **GRETA encourages the Belgian authorities to continue to develop international co-operation in the area of prosecution and their initiatives to prevent trafficking and assist victims in the countries of origin.**

²⁷ See CECLR, Annual report on trafficking in and smuggling of human beings 2011, op. cit., p. 92 and Annual report on trafficking in and smuggling of human beings 2008, op. cit. p. 97.

²⁸ CECLR, Annual report on trafficking in and smuggling of human beings 2011, op. cit., particularly p. 36.

2. Implementation by Belgium of measures aimed to prevent trafficking in human beings

100. According to Article 5 of the Convention, Parties must take co-ordinated action to prevent THB, with the involvement of relevant NGOs, other organisations and members of civil society as appropriate. The Convention requires Parties in particular to take measures to discourage demand, strengthen border controls and ensure the integrity, security and validity of travel or identity documents (Articles 6 to 9).

a. Measures to raise awareness

101. Each year in Belgium various events are organised to celebrate the European anti-trafficking day (18 October). A press briefing was held in 2009, for example, under the aegis of the Bench of Prosecutors General to widely publicise investigations, prosecutions and sanctions in trafficking cases and draw attention to the initiatives carried out at judicial level to combat this phenomenon. Another example was a colloquy organised by the Belgian authorities in co-operation with the Samilia Foundation in 2010 on trafficking in human beings for the purpose of economic exploitation. A short film entitled "10 minutes"²⁹ portraying the fate of a young Bulgarian woman forced into prostitution in Belgium was presented by the CECLR, the three specialised reception centres and the Samilia Foundation on the occasion of the European anti-trafficking day 2008.

102. In Liège, a multidisciplinary working group chaired by the reference magistrate for THB questions within the district public prosecutor's office runs general and targeted campaigns aimed at raising awareness. In particular, a number of initiatives have been launched among professionals working in the social and health fields (hospitals, the CPAS public social welfare centres, schools etc.) and the general public of the issue of trafficking and the need to report cases where trafficking is suspected.

103. A brochure aimed at raising awareness among hospital staff concerning the trafficking problem ("Trafficking in human beings - what to do? Advice for hospital staff"), prepared by the interdepartmental unit, has been distributed in all Belgian hospitals. Accompanying posters have also been put up in hospitals. GRETA welcomes this good practice concerning hospital staff as it believes that it is important to raise awareness of those actors who may play a significant role in detecting victims of THB.

104. There is also a "Stop child pornography" internet site which provides a civil point of contact where the public can report the dissemination of child pornography on the Internet. It was created within the framework of the "Safer Internet Plus" programme launched by the European Commission. The site also provides information on legislation and comprises information and awareness-building tools.

105. The CECLR website³⁰ contains a section on trafficking in human beings, featuring the Centre's annual reports on trafficking, the brochure for trafficking victims in several language versions, the relevant case-law and documentation.

²⁹
³⁰ Available on the CECLR website: www.diversite.be
www.diversite.be

106. The specialised NGOs regularly run initiatives, in the form of seminars, poster campaigns and publications, to raise public awareness of the different types of trafficking. One example was a petition “Stop Sex Trafficking of Children and Young People” signed by members of the Belgian public and delivered to the Belgian government in 2011 as part of a campaign run by ECPAT international.

107. GRETA stresses the benefit of organising targeted campaigns in sectors at risk and for vulnerable groups, as demonstrated by the above-mentioned project between Belgium and Brazil (see paragraph 98). However, GRETA notes that there is no general campaign to raise awareness of trafficking in human beings among the general public. The targeted campaigns that have been run in recent years have above all been the work of NGOs. GRETA emphasises that further efforts should be made to raise public awareness of trafficking in Belgium. It is important in this connection to counter persistent prejudices and stereotyping in respect of certain groups vulnerable to trafficking, particularly foreigners in an irregular situation and Roma from east European countries³¹, and to seek to remedy any tendencies to confuse victims of trafficking with criminals, including in the area of welfare fraud.

108. GRETA considers that the Belgian authorities should build greater awareness among the general public of the different types of trafficking and victims. To do so, the authorities should organise targeted information and awareness-raising initiatives, involving civil society and making use of the findings of research and impact assessments.

b. Measures to discourage demand

109. In accordance with the Convention, measures to discourage demand for the services of victims of trafficking, especially women and children, should be understood as a positive obligation on Parties to adopt and reinforce such measures as regards THB for the purpose of any form of exploitation (see paragraph 108 of the Explanatory Report of the Convention). As it is stated in the Recommended Principles and Guidelines on Human Rights and Human Trafficking, strategies aimed at preventing THB shall address demand as a root cause of trafficking³².

110. Using the services of a person while knowing them to be a victim of trafficking in human beings is not criminalised in Belgium (see paragraph 205). For some years now, the Inter-departmental Unit has been working on a mechanism for sanctioning order-givers (such as a shop or building company) who use intermediaries (such as a manufacturing workshop or temporary work agency) involved in trafficking. The Belgian authorities believe that the introduction of joint liability under civil and criminal law for order-givers might be a solution for discouraging use of such intermediaries. An ad hoc working group of the Inter-departmental Unit finalised the text of a draft law along these lines in 2010. The Governmental agreement of December 2011 provides for the introduction of this mechanism and the Action Plan 2012-2014 therefore proposes updating and adopting the draft text on the punishment of order-givers using intermediaries involved in trafficking. This draft text has not yet been discussed. However, the Law of 11 February 2013 providing for sanctions and measures against employers of third-country nationals illegally present on the territory was published on 22 February 2013. That law transposes Directive 2009/52/EC of the European Parliament and of the Council of the EU of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals. It may be that the mechanisms contained in that law could be applied to cases of economic exploitation qualifying as an offence under that law.

111. GRETA was also informed of the existence, since 2005, of a leaflet informing a broad audience of the issue of the economic exploitation of people in connection with domestic service (together with a specific brochure concerning private service work for diplomats). This brochure is being updated.

³¹ On this point see the fourth report of the European Commission against Racism and Intolerance (ECRI) on Belgium, paragraph 133 and following, www.coe.int/ecri.

³² Principle 4 of Addendum to the report of the United Nations High Commissioner for Human Rights (E/2002/68/Add. 1), <http://www.ohchr.org/Documents/Publications/Traffickingen.pdf>

112. **GRETA urges the Belgian authorities to increase their efforts to discourage demand for services provided by persons subjected to trafficking for the purpose of economic exploitation, including the purposes of domestic work, and sexual exploitation.**

c. Economic, social and other empowerment measures for groups vulnerable to THB

113. The Belgian authorities participate in projects aimed at supporting the fight against THB in countries of origin. Thus Belgium, together with Switzerland and UN GIFT, has contributed to the financing of a project “Combat Human Trafficking in Serbia” in 2010-2012.³³ The project has involved, *inter alia*, prevention measures for vulnerable groups. Measures have also been taken within the framework of co-operation with Brazil (see paragraph 98). **GRETA welcomes the initiatives backed by Belgium aimed at vulnerable groups in countries of origin and encourages the authorities to pursue those initiatives.**

114. GRETA nevertheless believes that it is also crucial to envisage measures aimed at vulnerable groups on Belgian territory. GRETA notes that the European Committee of Social Rights considered in decision on the merits of a collective complaint³⁴ that “the Belgian reception facilities’ lasting incapacity to care for a significant proportion of the unlawfully present minors (whether or not accompanied by their families) has the effect of exposing the children and young persons in question to very serious physical and moral hazards, resulting from the lack of reception homes and from life on the street, which can even consist in trafficking, exploitation of begging and sexual exploitation (...). The important and persistent failure to care for foreign minors unlawfully present in the country therefore shows that the Government has not taken the necessary measures to guarantee these minors the special protection against physical and moral hazards required by Article 7§10³⁵, thereby causing a serious threat to their enjoyment of the most basic rights, such as the right to life, to psychological and physical integrity and to respect for human dignity” (on this issue see also paragraph 134).

115. **GRETA urges the Belgian authorities to take social, economic and other initiatives aimed at groups vulnerable to different types of trafficking, such as unlawfully present foreign minors, whether accompanied by their family or not.**

d. Border measures and measures to enable legal migration

116. The Belgian authorities have stated that specific federal police departments are tasked with carrying out checks in airports, ports and international trains. In this context, exchanges of information on trafficking in human beings are no different from the exchanges of information within the other front-line services. Where trafficking is suspected, the front-line police officers refer cases to second-line colleagues or the specialised investigators of the federal police or the local police operating in the place of arrival. In airports, the police carry out specific checks when flights arrive from countries from which victims or perpetrators have already been identified in Belgium and work in concert with airline companies in this connection. Nevertheless, greater efforts are required to equip the staff responsible for carrying out checks in Belgium’s sea ports and on trains and lorries (customs, immigration) with high-performance tools enabling them to detect, identify and refer any THB victim transiting through the channels concerned, particularly within the framework of illegal immigration.

³³ See Action Plan 2012-2014, p. 14 (http://www.dsb-spc.be/doc/pdf/ACTIEPLAN_C_MH_FR_2012.pdf)

³⁴ European Committee of Social Rights, decision on the merits of 23 October 2012, *Defence for Children International (DCI) v. Belgium*, Complaint N 69/2011, paragraph 97 and 98.

³⁵ Article 7§10: “with a view to ensuring the effective exercise of the right of children and young persons to protection, the Parties undertake (...) to ensure special protection against physical and moral dangers to which children and young persons are exposed, and particularly against those resulting directly or indirectly from their work.”

117. The staff seconded to Belgium's embassies and consulates receive initial and ongoing training on visas. Furthermore, all the applicable regulations are available via the Federal Public Department of Foreign Affairs intranet and the Foreigners' Office website. Belgian embassies and consulates are asked to be particularly attentive to THB issues when processing visa applications. Special attention is devoted to the protection of minors. Alongside the obligations and recommendations in this field, which are set out in the Visa Code and the additional manual, the written consent of parents or a legal guardian is required in an application for a visa for a minor. If a visa application gives rise to a suspicion of trafficking, the relevant consular staff are under obligation to submit the case for decision to the Foreigners' Office of the Federal Public Department of the Interior.

118. The Belgian authorities run occasional campaigns in collaboration with the consular staff in different countries, aimed at providing an overview of requirements governing travel to and legal stay in Belgium. In co-operation with the Foreigners' Office, the Federal Public Department of Foreign Affairs has posted information on its multilingual internet site on the conditions to meet and the procedures to follow for persons coming legally to Belgium (particularly with a view to obtaining visas and coming to study or work in Belgium). More detailed information can be found on the Foreigners' Office bilingual internet site, in the "Guide to Procedures" section.

119. GRETA notes that the Belgian authorities are updating a brochure previously published in 2005, aimed chiefly at persons carrying out domestic work in Belgian households, explaining their rights and what they can do if they are victims of trafficking.

120. **GRETA considers that the Belgian authorities should increase the capacity of staff tasked with carrying out checks at borders, in ports and on motorways (particularly the customs and immigration control services) to detect and refer victims of trafficking.**

121. **Further, GRETA encourages the Belgian authorities to continue to ensure that all information on conditions of entry to and stay on Belgian territory is available in a variety of languages so that it may be understood by those it is addressed to.**

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

a. Identification of victims of trafficking in human beings

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

123. In Belgium, the framework for the detection, identification and referral of victims of trafficking is laid down by the Circular of 26 September 2008 on implementing multidisciplinary co-operation in respect of victims of trafficking in human beings and/or certain aggravated forms of smuggling of human beings. It must be noted from the outset that this Circular and the machinery it establishes are intended to apply to foreign victims, particularly those illegally present on Belgian territory.

124. The Circular on multidisciplinary co-operation states that a victim is detected by the statements they make to that effect and/or the spotting of clues pointing to the fact that their situation corresponds to trafficking in human beings. The list of indicators pointing to acts of trafficking is set out in Appendix 2 to Circular No. COL 1/2007. These indicators include the existence of an excessively high level of debt; falsified travel documents received from another person; insalubrious workplaces and physical working conditions; no or very little income; and limited freedom of movement. The Belgian authorities have stated that the list of indicators would be updated in the second half of 2013, partly in order to supplement it with specific indicators concerning trafficking in children. **GRETA wishes to be kept informed of the progress and outcome of the updating of the list of indicators.**

125. In addition, the Circular on multidisciplinary co-operation stresses that it is frequently the case that trafficking victims do not consider themselves as such, given the working conditions in their country of origin. Accordingly, it points out that, as the Belgian legislator held that the situation of victims had to be examined on the basis of criteria linked to working conditions and not in the light of those of the country of origin, such an individual may nevertheless be considered as a potential victim in terms of the Circular.

126. The Circular on multidisciplinary co-operation stipulates that when a victim or potential victim is detected by the police or labour inspectorate services, the services concerned must take the following steps: inform the public prosecutor, contact one of the three specialised reception centres and warn the Foreigners' Office. It must also inform the potential victim of the existence of a status affording protection to victims under Belgian law.

127. The Circular provides for two special cases of identification of victims of trafficking. In the special case of trafficking victims working for diplomatic staff, it states that one possibility of detecting the victim is the compulsory interview with the Protocol and Security Service of the Federal Public Department of Foreign Affairs upon their arrival and for the annual renewal of their special identity card. When a victim has been detected in this way, the service must contact the public prosecutor to launch the formal identification process. When a domestic employee working for the diplomatic service is formally identified as a victim of trafficking, under the terms of the Circular they must abandon their domestic employee status and undergo the procedure for being granted the status affording special protection to victims of trafficking (see paragraph 163). Furthermore, the Belgian authorities have stated that steps are taken at diplomatic level in respect of embassies when such cases of trafficking are discovered. In one case, following an investigation by the social inspectorate, an embassy was refused a special identity card for domestic staff.³⁶

128. The second special case concerns unaccompanied foreign minors³⁷. The Circular on multidisciplinary co-operation states that, in their case, the police or labour inspectorate service takes account of the specific situation and vulnerability of an unaccompanied foreign minor by carrying out investigations to detect victims and, in addition to the partners who would normally intervene in the case of adult victims, also involves the guardianship service which designates a legal guardian. Accordingly, when a victim is detected, the service fills in an unaccompanied foreign minor record, ticking the "trafficking in human beings" box, and sends the record on to the guardianship service of the Federal Public Department of Justice as well as a copy to the Foreigners' Office. If there is any doubt as to the age of the person concerned, it is the guardianship service which is responsible for its determination.

129. Once a victim has been detected, the public prosecutor who has been contacted carries out formal identification of the person concerned as a victim of trafficking in human beings entitled to the protection status provided for in Belgian law. It is the prosecutor who takes the final decision in case of doubt. Prosecutor's office officials take their decisions in consultation with the other partners, particularly the police and labour inspectorate services specialising in action against trafficking and the specialised reception centre accompanying the individual concerned.

130. In practice, detection of trafficking victims is carried out chiefly by the police and/or labour inspectorate services, often while running checks. For instance, during some of their checks implemented within the framework of action against slum landlords, the police and/or labour inspectorate services have detected victims of trafficking, usually for the purpose of exploitation of labour, among tenants, whom they then refer to the competent authorities. Another example are the checks carried out by the inspection services of the Federal Public Department of Employment, Labour and Social Dialogue and the Federal Public Department of Social Security in the sectors carrying a trafficking risk (prostitution, catering, agriculture, horticulture, manufacturing workshops, building industry). During certain checks, the labour inspectorate services may be assisted by the police services, which can also facilitate detection.

131. It may also be the case that the first point of contact with a victim is a specialised reception centre. In such cases the centre's multidisciplinary team examines the person's situation and contacts the public prosecutor if it believes that the individual is a victim of trafficking.

³⁶ See the Report of the Government on action against trafficking in human beings 2009-2010, p. 25 and p. 46.

³⁷ Unaccompanied foreign minors (abbreviated as 'MENAs' in Belgium) are defined as persons under 18 years of age who are not accompanied by a relative with parental authority or legal guardian and is a national of a country that is not a member of the European Economic Area (EEA).

132. Furthermore, it can happen that trafficking victims report themselves to the authorities or to NGOs, and that members of medical staff, social workers, clients, etc. contact specialised reception centres to inform them of possible trafficking cases. Several awareness-raising initiatives have been carried out to encourage these target audiences to contact specialised reception centres in such cases, which will then assist the potential victim and contact the competent public prosecutor to launch the procedure for the formal identification of the victim (see for example the brochure aimed at raising awareness among hospital staff mentioned in paragraph 103).

133. It should be noted that, within the Office of the Commissioner General for Refugees and Stateless Persons (CGRA), responsible for examining asylum requests, there is a public order and THB unit to co-ordinate all investigations on THB and assistance to victims. On the basis of individual asylum applications, the CGRA tries to identify potential victims of trafficking in human beings among asylum seekers. Examination of the applications and interviewing of these potential victims are carried out by a specialised member of staff. The specialised officials are assisted by the manager responsible for the geographical area concerned and are well versed in interviewing techniques, the specific issues involved and possibilities for assisting victims. Any investigation of the problems faced by an asylum seeker as a victim of trafficking in human beings is entirely separate from the examination of the asylum application. In 2009 and 2010, 43 cases of potential trafficking victims were reported to the public order and THB unit. The potential cases of sexual exploitation reported mostly involved women from sub-Saharan Africa. Other forms of exploitation reported related mainly to men of Iraqi origin.³⁸ Some victims of trafficking were allegedly obliged to make a bogus asylum application by the person who trafficked them (see also paragraph 212).

134. However, shortcomings persist in the identification of victims. GRETA is concerned over the difficulties reported relating to the identification of child victims of trafficking. One of the problems faced is rooted in the critical lack of capacity for receiving unaccompanied foreign children in Belgium, coming from EU Member States or not³⁹. Owing to a lack of space in dedicated structures, these children end up in inappropriate accommodation facilities or even on the streets, where they run the danger of falling into the hands of traffickers and, moreover, the detection of trafficking is made more difficult. The Committee on the Rights of the Child has expressed deep concern that child victims of trafficking are not accommodated or protected as they should be and could, as a result, disappear from reception centres and/or end up on the streets.⁴⁰ Cases where unaccompanied children have disappeared from accommodation centres are particularly worrying. Several sources emphasised the particular vulnerability of these children, who risked becoming victims of trafficking or being re-victimised owing to a lack of appropriate supervision. GRETA believes that those involved in child protection (particularly legal guardians, the guardianship service, the centres for observation and referral of unaccompanied foreign minors, the reception centres for unaccompanied foreign children not specialising in victims of trafficking) should be better trained in detecting and referring child victims. The Belgian authorities have stated that they are currently assessing the Circular on multidisciplinary co-operation as regards the detection and referral of unaccompanied foreign minors who are, or are at risk of, becoming victims of trafficking. This evaluation is to be finalised in July 2013. As indicated in paragraph 85, a training session on the issue of THB for social workers of several reception centres for unaccompanied foreign children is to be organised.

³⁸ See the Report of the Government on action against trafficking in human beings 2009-2010, p. 14.

³⁹ See also on this issue : European Committee of Social Rights, decision on the merits of 23 October 2012, *Defence for Children International (DCI) v. Belgium*, Complaint N 69/2011 and Paragraph 115 of this report.

⁴⁰ Committee on the Rights of the Child, Concluding observations: Belgium, 18 June 2010, CRC/C/BEL/CO/3-4.

135. Several sources have emphasised the shortcomings in identifying child victims of trafficking for the purpose of forced begging or the committing of petty offences and crimes such as burglary⁴¹. Roma children from East European countries (essentially Romania and Bulgaria) are reportedly regarded above all as juvenile delinquents when they are apprehended and not as potential victims of trafficking in human beings. Accordingly, the police, the public prosecution services and judges involved in combating certain forms of crime such as drug trafficking or theft should be made more aware of trafficking issues so that they can detect victims who have been forced to commit an offence and then refer them to the competent services for assistance. In this respect, the Action Plan 2012-2014 stresses that special attention must be devoted to the question of exploitation of children in general, adding that very young children are more likely to be used than others for the purposes of begging. The Action Plan does point out, however, that knowledge of the phenomenon remains very limited and that attention is to be drawn to this problem and its possible solutions. Furthermore, the network of expertise on trafficking in human beings has set up a working group on begging. The Belgian authorities have stated that at the time of preparing this report, the main objective of the working group was to create synergy between the stakeholders involved in tackling these issues by bringing them into direct contact and enabling them to share their experiences. In the longer term they believe it necessary to develop a work methodology based on analysis of the outcome of action on the ground. **GRETA would like to be kept informed of the results yielded by this working group and the measures taken to combat trafficking for the purpose of forced begging.**

136. GRETA notes with concern that, in practice, it happens that foreign victims of trafficking are not identified as such, which may result in them being considered as offenders or illegal immigrants and/or illegal workers in Belgium. In such cases, they might be taken to closed centres (administrative detention centres for foreigners unlawfully present on the territory with a view to them being deported) and/or deported before even being detected as victims. GRETA notes that there are cases where victims of trafficking are identified when they are already in a closed centre. For that reason, training should be stepped up for staff of closed centres and reception centres for asylum seekers and any other operatives in contact with migrants so that they are capable of detecting cases of THB and know who to turn to in such a situation.

137. Finally, there is not sufficient attention devoted to the Belgian victims in Belgium since the system of victim protection is geared to foreign victims and particularly those illegally present. The CECLR frequently points out that Belgian victims of trafficking, notably for the purpose of sexual exploitation, may also exist, particularly persons made vulnerable by drug dependency or groomed by “loverboys”, i.e. men seducing young women and who, once the relationship has started, force the woman to prostitute herself in order to benefit from the income of this forced prostitution.

138. GRETA welcomes the introduction of a clear framework for detection and identification by the Circular on multidisciplinary co-operation. The GRETA delegation was informed during the evaluation visit of good practices aimed at facilitating the detection and identification of victims, in particular through work to train and raise awareness among front-line actors (see, for example, paragraph 85). Nevertheless, **GRETA considers that the Belgian authorities should:**

- **strengthen the detection and identification of victims of trafficking, by ensuring that the tools available are fully known to front-line actors and correctly used by all actors;**
- **develop training in the detection and identification of victims aimed at police officers, employees of labour inspection services, public prosecutors and judges, particularly with a view to avoiding confusion between victims of trafficking, including those from vulnerable groups, and petty offenders or illegal migrants;**

⁴¹ See Centre for equal opportunities and opposition to racism, “Annual report on trafficking in and smuggling of human beings 2008”, Brussels, October 2009, p. 84.

- **develop training in the detection and identification of victims aimed at all front-line actors such as immigration officers, medical staff, social workers, public social welfare centres (CPAS) staff, those involved in child protection and particularly and legal guardians of unaccompanied children, the staff of closed centres for irregular migrants and centres for asylum seekers.**

139. **GRETA urges the Belgian authorities to strengthen the detection and identification of child victims of trafficking, particularly for the purpose of forced begging and committing petty offences and crimes and, to that end, adapt the existing tools or introduce mechanisms and a procedure tailored to their specific situation.**

140. **Furthermore, GRETA considers that the Belgian authorities should focus greater attention on detection and identification of trafficking victims who are of Belgian nationality, EU nationals or legally resident on Belgian territory, including by raising awareness of trafficking issues among the front-line actors coming into contact with them and explaining to these actors how to proceed and to whom to refer the victim in suspected cases of trafficking.**

b. Assistance to victims

141. The Convention requires Parties to take measures to assist victims in their physical, psychological and social recovery, taking account of the victim's safety and protection needs, in co-operation with NGOs and other organisations engaged in assistance to victims. This assistance must be provided on a consensual and informed basis, taking account of the special needs of persons in a vulnerable position, as well as children, and it must not be made conditional on the victim's willingness to act as a witness (Article 12). The need to take account of victims' needs is also referred to in the Convention's provisions concerning temporary residence permits (Article 14) and the rights of children victims of trafficking (Article 12(7)). The Convention also establishes that the assistance to victims of THB must include appropriate and secure accommodation.

142. The assistance available in Belgium for the victims and potential victims of trafficking in human beings is chiefly that provided for in the Law on Foreigners of 15 December 1980 (Articles 61/2 to 61/5). Within that legal framework, when the police or labour inspection services detect a potential victim, they must inform the persons concerned of their rights as potential trafficking victims. In practice, a common means of doing so is to hand over an information brochure published in several languages to potential trafficking victims. They also refer victims or potential victims to one of three specialised reception centres for victims of trafficking in human beings (Pag-Asa, Payoke or Sürya, see paragraph 39). However, it would appear that in practice, in some cases the police and labour inspection services do not systematically put potential victims directly in contact with one of the specialised reception centres, which results in the victims refusing the offer of assistance from the centres, possibly due to a lack of trust.⁴² It is important, therefore, to find a solution for putting the victim directly in contact with the staff of a centre who can then explain what they are entitled to. The centres operate a round-the-clock service, seven days a week, but apparently do not have the resources for urgent response in all cases where victims are detected.

143. The government has entrusted the three specialised reception centres managed by associations with the task of supporting victims of trafficking (see paragraph 148), with the CECLR ensuring co-ordination and collaboration between those centres. When a victim is illegally present on Belgian territory and needs permission for temporary stay, only the centre assisting them is authorised to lodge the application with the Foreigners' Office (see paragraph 164). Since the accommodation facilities of the specialised reception centres are not suited to the specific needs of children, support for child victims is provided by one of the three reception centres in collaboration with an accommodation centre for children.

⁴²

CECLR, "Annual report on trafficking in and smuggling of human beings" 2011, op. cit., p. 107.

144. Insofar as accommodation is concerned, the three specialised reception centres can take in all adult victims of trafficking, irrespective of gender, the type of exploitation, their nationality or status under immigration legislation and where they were detected, including abroad in certain cases. The three centres each have a discreet, secure reception facility where adult victims, both men and women, may be accommodated where necessary, with a total of 50 places available for the three facilities. In certain cases the victims may also be housed in “transit flats” or other accommodation, after a stay in a facility lasting between five and six months on average or directly, depending on their needs.

145. In addition to accommodation, the centres provide legal aid and psychosocial support as well as medical assistance. They help them to take back control of their lives and build a plan for the future (enrolment in language classes or vocational training, job hunting). For its assistance activities, each centre has a multidisciplinary team including educators, criminologists and social workers. At the beginning of the support process, the victim and the centre conclude a “support agreement”, which is a document jointly prepared by the three centres in conjunction with the CECLR. On top of the aid provided by the specialised reception centres, the public social welfare centres (CPAS) offer a whole package of aid including welfare or integration allowances.

146. As far as assistance for child victims of trafficking is concerned, as pointed out in paragraph 143, they cannot be housed in the aforementioned accommodation facilities of the specialised reception centres, as these are not suited to their circumstances. The Circular on multidisciplinary co-operation therefore stipulates that the Esperanto, Minor Ndako and Juna associations provide accommodation for minor victims and the same types of assistance (legal assistance, psychological assistance, etc.) as that granted to adult victims in collaboration with the three specialised reception centres for victims of trafficking. Furthermore, when the children are unaccompanied foreign children from a non-European country, legal guardians are appointed to represent them in all procedures. However, only the three specialised reception centres (Pag-Asa, Payoke and Sürya) are authorised to lodge an application for a trafficking victim residence permit granted for children. The fact that the children are housed in a centre which is not the one lodging the request complicates the procedure and multiplies the number of stakeholders in contact with a child victim of trafficking. Moreover, since the centres for children are funded by the respective communities, transferring a minor to a centre coming under another community is not always easy to carry out. However, the Belgian authorities have said that this is possible and did occur. In principle, the children will depend on the youth assistance services of the community where their designated guardian resides. Contacts may sometimes be made with the youth assistance services of the other community in order to develop a specific assistance programme for the young person in question.

147. The GRETA delegation visited a reception centre and an accommodation facility for trafficking victims in Liège housing male and female adult victims. The facility has common areas such as a kitchen and washrooms and several shared bedrooms with two or three beds. It is located at a different address from that of the administrative offices of the reception centre which runs it. The reception centre has individual interview rooms used, *inter alia*, for the psychosocial support to victims. The delegation also visited the site of a future accommodation facility, now under construction, which will be run by this centre. This facility will also receive trafficking victims and have individual bedrooms. In Antwerp, the delegation visited a reception centre providing drop-in services for victims of trafficking, notably initial reception and consultations providing legal aid and counselling for victims.

148. The Royal Decree of 18 April 2013 on recognition of specialised reception centres for victims of trafficking in human beings and of certain aggravated forms of people trafficking and authorisation to bring legal action was published on 22 May 2013 and entered into force 10 days later. It lays down the conditions to be fulfilled by an association in order to be officially recognised as a specialised centre for THB victims, which opens up the possibility for the association in question to launch the procedures provided for within the framework of the system of residence permits for trafficking victims (see paragraphs 155 and 164) and to be authorised to bring legal proceedings to uphold those victims' rights (see paragraph 219). The decree stipulates that only non-profit associations may apply and that Pag-Asa, Payoke and Sūrya are accordingly recognised for a renewable period of five years. It specifies that centres enjoying official recognition may conclude agreements with other associations for the reception of victims requiring special supervision, particularly minors. In a way, the main effect of the decree is to enshrine and officialise the organisation of assistance to trafficking victims as it has existed for several years in Belgium.

149. Although the specialised reception centres for victims of trafficking are entrusted with a key mission of assistance for those victims and are officially recognised since the Royal Decree of 18 April 2013, they do not have structural and permanent funding support from the Belgian State enabling them to fulfil that mission. The Royal Decree states that official recognition does not carry an entitlement to subsidies. Every year they have to ask for subsidies from various institutions, including the local authorities, to be able to fund their activities. The Belgian authorities have stated that structural funding (i.e. of a perennial nature) for the three specialised reception centres is currently under discussion within the government. GRETA would like to stress that it is important to find solutions for funding measures of assistance to victims of trafficking ensuring the best possible level of assistance and continuity in the care of the individuals concerned.

150. Foreign victims for whom a residence permit for victims of trafficking is requested must agree to receive support from a specialised reception centre. The Circular on multidisciplinary co-operation stipulates that, for its part, the specialised reception centre is bound to provide that support to the victim and, in the event of difficult dealings with a victim, it must consult the public prosecutor in charge of the case to explore the possible solutions (in practice, this may be support provided by one of the other two specialised reception centres). It is also pointed out that the specialised reception centre may cease support only when the public prosecutor has notified it that the victim no longer fulfils the conditions of the residence permit procedure or the victim is receiving support from another specialised reception centre.

151. The assessments of Belgian anti-trafficking policy and victim assistance machinery mentioned in paragraphs 73-76 have revealed that front-line actors are not sufficiently aware of the Circular on multidisciplinary co-operation and, accordingly, further efforts must be made to inform all the entities concerned of its content. Furthermore, GRETA believes that Belgium's existing framework does not take account of recent trends in victim profiles and should be adapted to the needs of certain trafficking victims. The assistance framework was designed above all on the basis of the residence permit to be granted to foreign victims from non-European countries who are unlawfully present on the territory. As pointed out above, child victims of trafficking have highly specific needs in terms of assistance that are not satisfactorily catered for. And it would also be advisable to check that the assistance envisaged is suited to victims of Belgian nationality, to those who are legally present in Belgium and above all to those who cannot or do not necessarily wish to stay (see paragraph 195). The Belgian authorities have stated that discussions are in progress at the level of the Inter-departmental Co-ordination Unit on how to provide a more varied assistance offer that could be adapted to the needs of all victims of trafficking, and irrespective of their status under immigration legislation. The working group which had been tasked with the drafting of the Circular should meet in the second half of 2013 to examine these issues.

152. **GRETA urges the Belgian authorities to:**

- **ensure that the assistance offered to victims of trafficking is adapted to their needs, particularly when these victims are in need of immediate assistance. As this assistance is delegated to NGOs playing the role of service providers, the State is under obligation to allocate the necessary funding and guarantee the quality of the services provided by those NGOs;**
 - **continue training and informing actors on the ground as regards the assistance available to victims of trafficking in human beings so that, as soon as a potential victim is detected, they refer that person to the competent services; and in this connection, to pursue efforts to inform those actors of the existence and content of the Circular on multidisciplinary co-operation where assistance is concerned;**
 - **review the current system of assistance in order to adapt it wherever necessary to each victim's specific needs, paying particular attention to the special situation of child victims, victims who are EU nationals and those of Belgian nationality.**
- c. Recovery and reflection period

153. As victims of THB are extremely vulnerable after the trauma they have experienced, Article 13 of the Convention introduces the obligation for Parties to provide in their internal law for a recovery and reflection period of at least 30 days. The recovery and reflection period, in itself, is not conditional on co-operation with the investigative or prosecution authorities and should not to be confused with the issue of a residence permit under Article 14(1) of the Convention. Pursuant to the Convention, the recovery and reflection period should be granted when there are reasonable grounds to believe that the person concerned is a victim of trafficking, i.e. before the identification procedure has been completed. During this period, Parties must authorise the person concerned to stay on their territory and expulsion orders cannot be enforced.

154. Article 61/2 to 61/5 of the Law on Foreigners of 15 December 1980 provides for a regime of specific permission to stay for foreign victims of trafficking, applicable to third-country nationals as well as to nationals from EU countries⁴³, proceeding in four main phases: reflection period, permission for a temporary stay of three months, permission for a temporary stay of six months and, finally, permission for an unlimited stay. Each phase entails different conditions for obtaining permission and different legal effects.

155. The reflection period phase is applicable to both identified victims and possible victims who do not have a residence permit for Belgium. It consists of a 45-day reflection period granted through the issue of an "order to leave the territory" valid for 45 days. The Circular on multidisciplinary co-operation stipulates that this period is granted to enable the victim to recover, take the time they need to break off contact with the presumed perpetrators of the offence and receive support from a specialised reception centre, which will help them to regain peace and stability. This period is also intended to enable the trafficking victim to decide if they wish to make statements concerning the presumed perpetrators of the trafficking or if they wish to prepare for a return to their country of origin. To be granted such a period, the potential victim must accept support from a specialised reception centre and break off links with the people who pushed them into the trafficking process. During this period, the person concerned may receive assistance from the centre supporting them and/or from a public welfare centre (CPAS). They may not be removed from Belgian territory during this time.

⁴³ The same type of procedure is applicable to third-country nationals who are victims of certain aggravated forms of smuggling of human beings.

156. In GRETA's view, the "order to leave the territory" valid for 45 days which constitutes the authorisation allowing adult victims to stay in the country for the purpose of recovering and reflecting should be renamed. Although this authorisation allows victims to benefit from a recovery and reflection period, it does not reflect the spirit in which it should be granted, i.e. the absence of pressure on the victim allowing them to take a decision calmly. The Belgian authorities have informed GRETA that a proposal would be sent to the competent ministers, suggesting the abolition of the "order to leave the territory" and the issuing of a specific document to the potential victim during the 45-day reflection period (either a "declaration of arrival" or a "certificate of registration"), with a possibility of extension for a maximum period of 15 days, by decision of the Foreigners' Office and at the express request of the specialised centre for THB victims. Other partners will have to be consulted over the proposal: the administration responsible for issuing work permits, the public welfare centre (CPAS), the support centres and the CECLR. The Law on Foreigners will also have to be amended.

157. The Law on Foreigners provides that the victim may decide, at any time during this period, to make statements, thereby moving onto the next stage of the application for a temporary residence permit available to victims of trafficking. Furthermore, this period may be interrupted by the Foreigners' Office if it is established that the person concerned has actively, voluntarily and at their own initiative re-established links with the presumed perpetrators of the offence or is considered to have compromised public order or national security.

158. As regards unaccompanied foreign children who are presumed to be victims of trafficking, there are specific provisions relating to the reflection period, given their vulnerability. During the reflection period, they are immediately issued with a three-month residence permit (and not a 45-day "order to leave the territory"). This residence permit must be requested by the specialised reception centre in consultation with the legal guardian. It is renewable once for a period of three months if the public prosecutor has not had the time to take a decision on victim status. In addition, the public prosecutor must contact the judge for young persons responsible for supervising the unaccompanied foreign minor.

159. Generally speaking, it appears that the persons assisted by one of the specialised centres for receiving trafficking victims are granted a reflection period unless they prefer to waive it. However, GRETA notes with concern that some victims have not been able to benefit from this reflection period and that the police services, through ignorance of the regulations, have not always contacted a specialised reception centre but proceeded directly to interview the person concerned.

160. GRETA urges the Belgian authorities to ensure that victims and possible victims of trafficking are systematically informed of the possibility of benefiting from a recovery and reflection period and are actually granted one.

161. Furthermore, GRETA considers that the Belgian authorities should revise the current form of the reflection period granted to adult trafficking victims entailing an order to leave the territory by a certain date and transform it into a temporary residence permit.

d. Residence permits

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

163. The Law on Foreigners of 15 December 1980 provides for a regime of specific permission to stay for foreign victims of trafficking who agree to co-operate with judicial bodies. Alongside this procedure there exists the possibility for a trafficking victim to be granted permission to stay on the basis of their exceptional circumstances and also a special legal regime for unaccompanied foreign minors.

164. Concerning the procedure based on co-operation on the part of the victim, in practice, after the first phase of the reflection period a second phase begins, in which a provisional residence permit (called *attestation d'immatriculation*), valid for three months is issued, at the request of the specialised reception centre to a victim making a statement or lodging a complaint. This permit is renewable once if required by the investigation or if the Foreigners' Office considers it desirable in view of the information in the person's file. During this phase, assistance from a specialised centre is mandatory and the victim may be granted permission to work if they succeed in obtaining a "C" work permit (entitling them to take any salaried job).

165. Under Article 61/3 of the Law, in order to benefit from the residence permit in question, the person concerned must have "lodged a complaint or made a statement concerning the persons or networks alleged to have been guilty of the offence of trafficking in human beings". Several sources confirmed that in practice the obligation to co-operate with the authorities is considered as being fulfilled by merely making a statement (it is not actually necessary, therefore, to make a complaint or provide witness testimony, nor is it necessary for the statement to be decisive for the investigation).

166. In the third phase, the victim's stay may be extended depending on how the investigation develops and subject to a number of conditions, through a six-month residence permit (called a certificate of inscription in the foreigner's register – *certificat d'inscription au registre des étrangers*). It is the specialised reception centre which lodges the application on behalf of the victim, and the public prosecutor who decides to grant this status in consultation with the other entities concerned, including the specialised reception centre, the police and labour inspectorate services and the THB unit in the Foreigners' Office. The conditions are as follows: 1) the prosecutor's office or labour law auditor's office considers that this person is a victim of trafficking or an aggravated form of smuggling of human beings; 2) the judicial dossier is still in progress; 3) the victim shows a clear willingness to co-operate and has broken off links with the presumed perpetrators; 4) the victim is not considered as a risk to public order or national security.

167. This residence permit may be renewed every six months until the end of the judicial procedure. During this phase, assistance from a specialised centre is also mandatory and the victim may be granted permission to work once they have obtained a "C" work permit. It is possible, however, to terminate their stay if the Foreigners' Office finds that one of the aforementioned conditions is no longer complied with or if the person's co-operation is fraudulent or their complaint is fraudulent or unfounded.

168. At any time during phase two and three, the public prosecutor may decide independently whether or not a person may still be considered as a victim of trafficking, in consultation with the actors mentioned in paragraph 166. This decision is not subject to appeal. However, a decision of the Foreigners' Office regarding the administrative decision to grant or withdraw a residence permit may be appealed against before the Foreigners' Litigation Council.

169. Finally, in the fourth phase, Article 61/5 of the Law on Foreigners provides expressly for the possibility of granting an indefinite residence permit in cases where the prosecutor's office or the labour law auditor's office cited the element of trafficking in human beings in their indictment and the complaint or statements were significant for the judicial proceedings, and this regardless of whether the proceedings resulted in a conviction or not. This residence permit can be obtained at the request of the person concerned, or at the request of the specialised reception centre or the victim's counsel.

170. On the other hand, if the case is closed and no further action taken, the trafficking victim will not be able to obtain this residence permit. If they wish to stay in Belgium, they will have to apply for another permit, such as a permit on humanitarian grounds. There is an unofficial procedure known as the "STOP procedure", whereby a request for regularisation may be lodged exceptionally under Article 9*bis* (residence permit for exceptional circumstances) of the Law on Foreigners. This possibility is reserved for victims of trafficking in human beings who have been receiving support for at least two years from one of the specialised reception centres when the investigation is closed and no further action taken by the prosecutor's office. The Foreigners' Office takes account of evidence demonstrating the integration of the person concerned when deciding whether or not to grant the corresponding residence permit. However, if a case is closed with no further action taken before the threshold of two years is reached, this solution is not applicable, which may place the victims of trafficking in a difficult situation, despite them having co-operated with justice.

171. For identified or possible foreign victims who are children and unaccompanied, the procedure is more or less the same as the one described above with a few specific features. Article 61/2 of the Law on Foreigners stipulates that "the best interest of the child shall be taken into account throughout the procedure". The Circular on multidisciplinary co-operation states that the three conditions of breaking off contact with the traffickers, receiving support from a specialised centre and co-operating with justice are to be considered with the necessary degree of flexibility, in the interests of the child and with due regard to their particular vulnerability. It stipulates that the competent authorities must do their utmost to trace the unaccompanied minor's family as swiftly as possible and that the child is entitled to education and social assistance, as well as sickness and invalidity insurance cover.

172. However, several stakeholders have pointed out that the condition of co-operating with the judicial authorities is particularly problematic for children and should be dropped. Some children are unable to co-operate, especially when the perpetrators of trafficking are from their own family. The Action Plan 2008-2011 already envisaged the possibility of establishing a residence permit for minor victims of trafficking irrespective of their willingness or ability to co-operate with the prosecution authorities. Since this initiative did not yield results, the Action Plan 2012-2014 presented the idea again, pointing out that unaccompanied foreign minors should be able to obtain a residence permit regardless of whether they collaborate with judicial authorities or not, and an amendment to legislation should be envisaged in this respect. The Belgian authorities have stated that this question would be reconsidered within the working group to be set up to update measures for victim protection. No meetings are planned for this group until the second half of 2013.

173. It is currently possible for child victims of trafficking who cannot go through the trafficking victim status procedure (which supposes co-operation with judicial authorities), subject to certain conditions, to request a residence permit for unaccompanied foreign minors from non-European States, on the basis of Articles 61/14 and 61/25 of the Law on Foreigners. However, unaccompanied children from EEA countries may not benefit from it. These children are cared for within the framework of the Ministerial Circular on unaccompanied European minors in a situation of vulnerability of 2 August 2007. This circular stipulates that the Vulnerable European Minors Department within the Guardianship Service shall take the necessary steps to ensure that welfare services are provided for the child in an accommodation centre that is not specialised in victims of trafficking. However, unlike non-European minors, these children are not assigned a legal guardian and are not granted a residence permit for unaccompanied foreign minors, which includes access to a specific system of education ("gateway classes" in the French Community or "reception classes" in the Flemish Community). In practice, this problem concerns children from Romania and Bulgaria in particular. Accordingly, these children, when they cannot co-operate with the judicial authorities, cannot be granted the status affording protection to trafficking victims or the status affording protection to unaccompanied foreign minors. The Action Plan 2012-2014 states that, to resolve this problem, the Governmental Agreement of 1 December 2011 stipulates that European unaccompanied foreign minors must also be granted specific protection and assigned a legal guardian.

174. In 2011, the Foreigners' Office registered 129 applications for residence permits for victims of trafficking in human beings, 34 of which concerned victims of trafficking for the purpose of sexual exploitation and 81 for the purpose of economic exploitation. In terms of the victims' nationality, the available data do not distinguish between THB and smuggling of human beings. For 2011, the most heavily represented nationalities include 26 victims from Romania, 20 from Morocco, 14 from Bulgaria, nine from China and eight from India. In 2011, 61 victims were granted an indefinite residence permit, 50 of them for reasons inherent in the THB procedure and 11 on humanitarian grounds.

175. In addition, it is noteworthy that one trafficking victim was granted refugee status by decision of the Foreigners' Litigation Council on 20 October 2010. On appeal against a decision of the Commissariat general for refugees and stateless persons, the Foreigners' Litigation Council granted refugee status to a woman who had fled "the Former Yugoslav Republic of Macedonia", owing to her fear of being persecuted because she belonged to the social group constituted by women in that country.⁴⁴ It took into account the facts of forced prostitution, supervised freedom of movement and ill-treatment suffered by the woman concerned in her country. The Foreigners' Litigation Council also held that the woman's fear of not being afforded effective protection by the national authorities of the country of origin, or any internal protection alternative in the country of origin, was justified in the case at point.

176. GRETA considers that the Belgian authorities should ensure that victims of trafficking can make full use of the possibility of obtaining a temporary stay permit in Belgium, in particular when they are not in a position to co-operate with the authorities.

177. GRETA also considers that the Belgian authorities should take additional steps to ensure that child victims of trafficking may be granted a residence permit on the basis of their best interest and not of their willingness or ability to co-operate with judicial bodies.

e. Compensation and legal redress

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

179. In Belgium, there are several remedies enabling a victim of trafficking to obtain compensation for the damage suffered. The first of these is to institute civil proceedings before the criminal court judge during the trial of the presumed perpetrator of the trafficking offence, claiming pecuniary and non-pecuniary damages. This option has the advantage of following on from the criminal case and asking for further investigations by the investigating judge.

180. If the victim does not institute civil proceedings before the criminal court judge, they may make a separate civil application but the civil procedure is suspended for as long as the criminal court judge has not definitively ruled on the public prosecution.

⁴⁴ Foreigners' Litigation Council decision of 20 October 2010, no. 49.821, commented on in the 2011 annual report of the CECLR and accessible on the CECLR website.

181. As stated in paragraph 204, it is possible to freeze, seize and confiscate the assets of the perpetrators of an offence and use the confiscated assets to compensate the victim. The judge may award confiscated items to the party claiming damages by way of compensation. That said, while detailed statistics are lacking on this point, the annual reports on trafficking in and smuggling of human beings of the CECLR, particularly the report covering 2011, have mentioned numerous examples where Belgian criminal courts have awarded sometimes substantial damages to victims of trafficking in human beings. In the area of trafficking for the purpose of sexual exploitation a young Nigerian woman who had been recruited in Nigeria and had to work as a prostitute to reimburse a so-called debt of 45 000 euros was awarded 5 000 euros of non-pecuniary damages and 50 000 euros of pecuniary damages. In another case of trafficking for the purpose of sexual exploitation connected with an organised network of prostitution where the perpetrators and victims were Romanian, in view of the period for which the victims had been exploited, the perpetrators were sentenced to jointly pay the sums of 432 000 euros for pecuniary damage and 5 000 euros for non-pecuniary damage to one of the victims and 257 680 euros for pecuniary damage and 5 000 euros for non-pecuniary damage to the other victim, with the judge ordering confiscation of the equivalent sum of the proceeds resulting from their exploitation⁴⁵.

182. It is noteworthy that the perpetrators of a THB offence are often insolvent or render themselves insolvent, which means that the victim is unable to obtain compensation from them. A victim of THB can turn to the Fund for financial aid for victims of intentional acts of violence and incidental rescuers via an application for aid lodged with the Commission for financial aid for victims of intentional acts of violence and incidental rescuers (Aid Commission). They must fulfil certain conditions: firstly, they must demonstrate that an intentional act of violence has been committed, which poses a problem in cases of trafficking for the purpose of economic exploitation, as the Aid Commission's case law shows. The victim must also demonstrate that they have suffered grave physical or mental damage and that that damage is the direct consequence of the act of violence. It is to be noted that, although this remedy was not initially available to victims irregularly present on the territory at the time of the act, in 2004 its scope was extended to victims who then obtained an indefinite residence permit owing to their trafficking victim status. Then, in 2009, a further amendment was introduced, enabling a victim of an intentional act of violence illegally present at the time of the events to lodge an application for aid even if they were still subsequently in an illegal situation.

183. The Commission can grant three types of aid: principal aid, requiring the victim to await the completion of the investigation or criminal proceedings and then launch a civil suit; emergency aid which may be requested as soon as the civil claim is filed; and supplementary aid in the case of damage subsequently becoming more serious. Aid from the Commission is subsidiary to the other types of compensation possible.

184. In practice, it appears that the victims of trafficking seldom use this procedure, owing to a lack of information but also because it is complicated, lengthy and psychologically taxing. In addition, it supposes that the victim must initially lodge a complaint and/or file a civil lawsuit. Finally, victims who are third-country nationals and go back to their country cannot use it since the victim must be resident (legally or not) in Belgium.⁴⁶ However, there were two examples cited by the CECLR in its annual report for 2011⁴⁷ where aid was granted to victims of trafficking. One victim of trafficking for the purpose of sexual exploitation having suffered assault and battery on a regular basis who had been a minor at the time of the offence received a principal aid of 62 000 euros (the maximum amount for principal aid). And a Nigerian victim, forced into prostitution to reimburse a so-called debt and threatened and beaten by the perpetrators as well as being pressurised by voodoo practices, was awarded 10 000 euros since she had not been able to obtain the sum of 27 000 euros from the perpetrators which they had been ordered to pay in the civil case.

⁴⁵ Brussels Appeal Court, 30 January 2009, quoted in the CECLR's Annual report on trafficking in and smuggling of human beings 2011, p. 55-56.

⁴⁶ The nationals of EU countries benefit from a mechanism allowing them to apply to the Aid Commission via the intermediary of their country's authorities.

⁴⁷ CECLR, Annual report on trafficking in and smuggling of human beings 2011, op. cit. p. 62.

185. There are also specific mechanisms enabling workers to recover wages owed to them by their employer, which are applicable to any case of economic exploitation. In particular, an employer who gives work to a third-country national irregularly present in Belgium under a work contract is bound to pay that person a wage equivalent to the one they would have had to pay to a legally employed worker. If the worker is a foreigner and their address and bank/postal data are unknown, the employer may be sentenced to pay the outstanding amount of wages into the Deposit and Consignment Fund ("Caisse des dépôts et consignation"). The money is then blocked for 30 years so that, even if an irregular migrant has returned to their country for example, they can still reclaim the amount blocked in this fund. However, in practice, as the Belgian authorities⁴⁸ and the CECLR⁴⁹ have pointed out, in a case like this the loss of contact with the worker would make it virtually impossible to reimburse their salary.

186. According to the Circular on multidisciplinary co-operation, one of the tasks of the specialised reception centres is to provide legal assistance. This entails informing and advising the victim as to their rights but also ensuring that the victim's rights and interests are upheld in the judicial procedure concerning the acts of trafficking, by offering the assistance of a lawyer. The specialised reception centres usually work with lawyers who specialise in representing victims of trafficking. The victim may then decide, in full knowledge of what is involved, whether or not to file a civil lawsuit. The CECLR and the Belgian Senate's working group on trafficking in human beings have asked that thoughts be turned to more swiftly appointing a lawyer for victims of trafficking who have made a statement or lodged a complaint.⁵⁰

187. Several actors stressed the importance of using reliable interpreters, as soon as victims are detected but also throughout the criminal proceedings against traffickers and other judicial procedures⁵¹. However, to date there is no centralised list of available and reliable interpreters who could be called upon to assist victims of trafficking.

188. It must be noted that the system of legal assistance operated through the specialised reception centres does not apply to victims of trafficking who do not qualify for protection status or leave Belgium. They fall within the more general legal assistance framework and must therefore meet the general criteria for receiving it, which may be difficult.

189. The specialised reception centres may file a civil lawsuit, in their own name or on behalf of the victim with their consent, as they are authorised to institute legal proceedings in THB cases (see paragraph 212). The CECLR is also authorised to do so. To take one example, a specialised reception centre and the CECLR filed a civil lawsuit in addition to the victims in the case of the network of trafficking for the purpose of prostitution mentioned in paragraph 181. This enabled each of them to actively monitor the procedure and they were awarded symbolic damages of one euro.

190. **GRETA considers that the Belgian authorities should adopt measures to facilitate and guarantee access to compensation for victims of trafficking, and in particular:**

- **ensure that those victims of trafficking who leave Belgium may nevertheless obtain compensation, including via the Fund for financial aid for victims of intentional acts of violence;**
- **ensure that all victims of trafficking, including for the purpose of economic exploitation, have an effective access to this Aid Fund framework or to another system of compensation;**

⁴⁸ See Report of the Government on the fight against trafficking in human beings 2009-2010, p. 27.

⁴⁹ CECLR, Annual report on trafficking in and smuggling of human beings 2011, op. cit. p. 57.

⁵⁰ CECLR, Annual report on trafficking in and smuggling of human beings 2011, op. cit., p. 79.

⁵¹ See, *inter alia*, CECLR, Annual report on trafficking in and smuggling of human beings 2011, op. cit. p. 78 and p. 111.

- **enable victims to uphold their rights to compensation, by guaranteeing them effective access to legal assistance and reliable interpreting services.**

191. **In addition, GRETA invites the Belgian authorities to introduce a system for recording the applications lodged for compensation as well as the compensation awards obtained by victims of trafficking.**

f. Repatriation and return of victims

192. Article 16 of the Convention requires Parties to establish repatriation programmes which aim at avoiding re-victimisation and involve relevant national or international institutions and NGOs, as well as to make efforts to favour the reintegration of victims into the society of the State of return. Parties must also make available to victims of trafficking contact information or structures that can assist them in the country of return, such as law enforcement offices, NGOs, legal professionals and social welfare agencies. The return of victims of trafficking must preferably be voluntary and needs to be carried out with due regard for the rights, safety and dignity of the person and for the status of any legal proceedings related to the fact that the person is a victim of THB.

193. The Circular on multidisciplinary co-operation provides that, when a trafficking victim wishes to return to their country of origin, the specialised reception centre contacts the International Organisation for Migration (IOM) or an NGO with a view to organising their voluntary return. When a victim's return requires the provision of police protection, the specialised centre must request the organisation of such protection solely from the Central Service for THB Affairs of the Federal Police. In addition, if necessary, the victim's family or organisations in the country of origin are contacted so that they can receive and assist the victim. When the victim is a minor, the specialised reception centre, working in conjunction with the victim's legal guardian, contacts one of the aforementioned organisations to organise the victim's voluntary return. When the return is the result of an order to leave the territory because the procedural requirements are no longer fulfilled, the legal guardian must take the necessary steps to have their ward removed or otherwise apply for permission to stay on different grounds from those applying to victims of trafficking. Furthermore, where minors are concerned, an investigation must be carried out to establish that the family is not behind their exploitation before a return can be envisaged.

194. In practice, the voluntary return of persons who qualify for protection status under Belgian law and decide to stop co-operating with the prosecution authorities or who, for one reason or another, no longer qualify for protection are generally carried out via the REAB programme of assistance for returns⁵² funded by the Belgian State and managed by the IOM in partnership with civil society. There is also a system of voluntary and assisted return run by Caritas International Belgium. For its part, the IOM works in close co-operation with the specialised reception centre which provided support to the person concerned and on the basis of the guidelines set out in the IOM Handbook on Direct Assistance for Victims of Trafficking dating from 2007. Victims of trafficking are considered as belonging to a vulnerable group and, accordingly, are afforded specially adapted assistance by the IOM Office in Brussels, which involves additional support specifically tailored to the migrant's individual situation, geared, *inter alia*, to guaranteeing their safety and facilitating reintegration in their country of origin. There are relatively few voluntary returns of victims of trafficking in human beings, most of whom remain in Belgium. In 2010, 14 victims of trafficking benefited from repatriation under these arrangements, 15 in 2011 and 13 in 2012. The Belgian authorities have stated that, in principle, a victim who is a EU national is not entitled to voluntary return via the IOM unless that person may be considered to be in a vulnerable situation. GRETA notes, however, that in practice this type of organised return is implemented only for victims from countries that are not EU members.

⁵²

REAB: Return and Emigration of Asylum Seekers ex Belgium.

195. GRETA was informed of situations where victims of human trafficking from EU countries preferred to return to their country of origin, but there were also cases where victims did not wish to co-operate for fear of possible reprisals from the traffickers. Such persons either do not wish to or cannot be afforded the protection status as provided for in Belgian law and do not benefit from the assisted return referred to the precedent paragraph. In such cases, it is vital to ensure that the return of these victims takes place in the best possible conditions, in line with the rules laid down in Article 16 of the Convention, taking account of the specific needs of persons who are vulnerable to trafficking and/or risk being re-victimised, particularly children.

196. **GRETA urges the Belgian authorities to:**

- **ensure that that there are repatriation assistance arrangements suitable for all victims of trafficking, regardless of whether they are from EU Member States or not and irrespective of their status regarding residence permits for victims of trafficking, with due regard for the rights, safety and dignity of the person concerned and the state of judicial proceedings; this also implies protection against reprisals and against re-trafficking;**
- **carry out an assessment of the risks of re-victimisation specific to children, paying special attention to children who are EU nationals and have been victims of trafficking, and systematically taking due account of the best interests of the child;**
- **strengthen co-operation with the countries to which victims of trafficking return, with a view to improving their reintegration and rehabilitation.**

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

a. Substantive criminal law

197. 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).

198. As pointed out in paragraph 50, Article 433*quinquies* of the Criminal Code makes trafficking in human beings a criminal offence. The question of the definition of trafficking in human beings has already been considered in paragraphs 51 and following, and GRETA will now consider other questions of substantive criminal law.

199. The aggravating circumstances for the offence of trafficking are provided for in Articles 433*sexies* to 433*octies* of the Criminal Code. The aggravating circumstances of abuse of authority, abuse of a person's situation of vulnerability and the use of fraudulent tactics, violence, threats or any other form of constraint have already been covered in paragraph 52 since they are akin to the element of means provided for in the Convention. It is noteworthy that, following an amendment of the Criminal Code in 2011, the circumstances of vulnerability for several offences, including trafficking in human beings, are now amended to read "vulnerable situation" instead of "particularly vulnerable situation". Furthermore, a person's age has been added to the list of vulnerable circumstances.

200. Other aggravating circumstances for the offence of human trafficking correspond to those required under Article 24 of the Convention: the fact that the offence deliberately or by gross negligence endangered the life of the victim; the offence was committed against a minor; the offence was committed by a public officer or official or a person holding or agent of public authority in the performance of their duties; the offence was committed as an act of participation in the main or accessory activities of a criminal organisation irrespective of whether the offender directs operations.

201. In addition, Belgium's Criminal Code provides for the following aggravating circumstances: offence committed by a person who has control over the victim; offence causing an incurable disease, disability, mutilation or the loss of an organ; the activity concerned is an habitual activity; offence constituting an act of participation in the main or accessory activities of an association (other than a criminal organisation), irrespective of whether the offender directs operations; offence unintentionally causing the death of the victim.

202. Regarding the sanctions applicable in cases of trafficking in human beings, under Article 433*quinquies*, paragraph 2, of the Criminal Code, the basic offence of trafficking in human beings is punishable by up between one and five years' imprisonment and a fine of between 500 and 50 000 euros. Articles 433*sexies* to 433*octies* provide for three additional degrees of punishment, depending on different types of aggravating circumstances applicable to the offence of trafficking⁵³. Further, pursuant to the Law of 24 June 2013 criminalising the exploitation of begging and prostitution, trafficking in human beings and smuggling of migrants in relation to the number of victims (published on 23 July 2013), it is envisaged that under Articles 433*quinquies*, 433*sexies*, 433*septies* and 433*octies* the fine will be multiplied by the number of victims.

⁵³ In summary, Article 433*sexies* provides for a prison sentence of five to 10 years and a fine of between 750 and 75 000 euros when the offence of trafficking is committed through abuse of authority or by a public official in the exercise of their duties.

Article 433*septies* provides for a prison sentence of 10 to 15 years and a fine of between 1 000 and 100 000 euros: when the offence of trafficking is committed against a minor; through the abuse of vulnerability; through the use of fraudulent tactics, violence, threats or constraint; when it endangers the life of the victim; when it has caused an incurable disease, a

203. Where one of these aggravating circumstances is found, in addition to the sanctions of imprisonment and a fine, Article 433*novies* provides for a ban on the perpetrators of the offence from exercising certain civic rights (notably the right to exercise certain public functions and the right to stand for election or to vote) and the temporary or definitive partial or total closure of the business in which the trafficking offence was committed. GRETA also notes that since the adoption of a law of 1 July 2011, Article 134*quinquies* of the New Communal Law provides that, where there are serious indications that acts of trafficking in human beings within the meaning of Article 433*quinquies* of the Criminal Code are taking place in an establishment, the *bourgmestre* may, after prior consultation and having heard the manager's arguments in defence, decide to close that establishment for a period to be determined by him of no more than six months.

204. It is also possible to sanction a perpetrator of trafficking by confiscating assets. In this respect, the Criminal Code stipulates that the confiscation of assets that were used to commit the offence is mandatory for the perpetrators of THB. Pursuant to Article 433*novies* of the Criminal Code and notwithstanding the general regime of confiscation, assets are confiscated even when the perpetrator of human trafficking is not the owner of those assets, without prejudice, however, to the rights of third parties in respect of the assets subject to confiscation. As far as the confiscation of income from assets resulting from trafficking is concerned (for example, proceeds of the exploitation of prostitution of others), this is optional and the prosecutor may demand the equivalent confiscation of assets where it is not possible to determine which assets or incomes result from the offence. As already mentioned in paragraph 177, the judge may award physical items or amounts confiscated to a victim who has brought a civil action in the trial. On the other hand, GRETA was informed that, since a Court of Cassation judgment of 27 May 2009, the confiscation of a building having been used to commit the offence of trafficking is not possible since there is no express legal provision for this. The Action Plan 2012-2014 aims to clarify this point so that it will be possible to confiscate real estate assets in trafficking cases, and a proposal for a law along these lines was tabled by senators in 2011⁵⁴. The working group tasked with preparing the transposition of the EU Directive on trafficking in human beings has also made a proposal along these lines. As this report was being finalised, a draft law on the confiscation of buildings including in cases of trafficking in human beings was being discussed by the Belgian parliament. **GRETA wishes to be kept informed of progress in this area.**

205. As already noted in paragraph 110, using the services of a person while knowing them to be a victim of trafficking in human beings is not criminalised in Belgian criminal law. However, a draft mechanism for joint liability under civil and criminal law providing for sanctions for order-givers using intermediaries employing victims of trafficking is currently under discussion (see paragraph 110). **GRETA invites the Belgian authorities to consider the possibility of criminalising the use of services of a person in the knowledge that that person is a victim of trafficking in human beings, not only in cases of economic exploitation but also for the other purposes of exploitation covered by the Convention.**

permanent disability, mutilation or loss of an organ; when the activity concerned constitutes an habitual activity; when the activity is an act of participation in the activities of an association.

Finally, Article 433*octies* provides for a prison sentence of 15 to 20 years and a fine of between 1000 and 150 000 euros when the offence of trafficking has unintentionally caused the death of the victim or where it constitutes an act of participation in the activities of a criminal organisation.

⁵⁴

See CECLR, Annual report on trafficking in and smuggling of human beings 2011, op. cit., p. 40.

206. The Belgian authorities have stated that the acts of intentionally retaining, removing, damaging or destroying another person's travel or identity document with the aim of permitting THB are not offences in themselves but constitute one of the indicators of the existence of the offence of trafficking *per se*. The confiscation or destruction of documents may therefore be taken into account by the judge when assessing aggravating circumstances such as abuse of the victim's vulnerability⁵⁵. The authorities have added that Article 527 of the Criminal Code criminalises the act of "deceitfully or fraudulently destroying in any manner whatsoever registers, minutes or original acts of a public authority"⁵⁶. However, to date, in the absence of case-law on this point, it is not clear whether travel or identity documents may be assimilated to the notion "acts of a public authority". The authorities have also referred to the possibility of envisaging application of Article 559, paragraph 1, of the Criminal Code which punishes the deliberate damaging or destruction of another person's movable property or, depending on the case, Article 528 of the Criminal Code which punishes the deliberate destruction of another person's movable property with violence or threats. **GRETA invites the Belgian authorities to ensure that acts of intentionally retaining, removing, damaging or destroying another person's travel or identity documents with the aim of permitting THB may be criminalised as such.**

207. Article 433*quinquies*, paragraph 3, of the Criminal Code stipulates that an attempt to commit the offence of trafficking is punishable by one to three years' imprisonment and a fine of 100 to 10 000 euros. Aiding and abetting trafficking in human beings is governed by the generally applicable Articles 67 and 69 of the Criminal Code, which stipulate that the accomplice of an offence is punished with a lesser sentence than they would incur as the perpetrator of the offence.

208. Article 5 of the Criminal Code provides for the criminal liability of legal entities, including for the offence of trafficking. The punishments stipulated for legal entities are fines, confiscation, dissolution, a temporary or definitive ban on exercising an activity, temporary or definitive closure of one or more establishments, and publication or dissemination of the decision. One example of a conviction of legal entities for acts of trafficking⁵⁷ was the decision of the Ghent regional court of 5 November 2012. In that case, a company (a chain of motorway cafes as the order-giver) used the services of a contractor for the cleaning of its toilets. That contractor used solely foreign employees who worked seven days a week from 7 a.m. to 10 p.m. for 45 euros a day. In this case both the contractor employing the workers and the order-giver, which was fully aware of their working conditions, were sentenced to pay fines of 528 000 euros and 99 000 euros respectively. GRETA welcomes the efforts made by the Belgian authorities to ensure that legal entities are held responsible for offences related to human trafficking.

209. The Belgian authorities have stated that it is possible to take account of previous convictions in other states parties to the Convention when determining the punishment in the light of the aggravating circumstance of Article 433*septies* 6° of the Criminal Code. This relates to the habitual nature of criminal activity and the authorities have pointed out that, given its broad wording, it enables the judge to take judgments of foreign courts into consideration to impose a heavier sentence. The general provisions of the Criminal Code on repeat offending (Articles 53 to 57) are currently limited to convictions handed down in Belgium but should be extended to include convictions pronounced in another EU Member State once the Belgian authorities have transposed Framework Decision 2008/675/JHA of the Council of the EU of 24 July 2008 on taking account of convictions in the Member States of the European Union in the course of new criminal proceedings.

⁵⁵ For an example of case law where retaining the identity papers of trafficking victims was regarded as an aggravating circumstance in connection with abusing the victim's vulnerability, see the decision of the Tribunal correctionnel de Charleroi, 18 March 2011, available on the CECLR website.

⁵⁶ If the person who destroyed the documents is a person working as a public official, it is Article 241 of the Criminal Code which is applicable and not Article 527.

⁵⁷ For another example, see the decision of the Tribunal correctionnel de Tournai, 4 November 2010, available on the CECLR website.

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

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

211. As already noted in paragraph 50, Article 433*quinquies*, paragraph 1, 5° of the Belgian Criminal Code prohibits trafficking in human beings with a view to making a person commit a crime or misdemeanour against their will. In such a situation, the person who committed the crime or misdemeanour against their will is considered as a victim rather than an offender. By way of example, this provision has been applied by Belgian judges in respect of Moroccan victims of THB for the purpose of drug trafficking⁵⁸ and a Romanian victim trafficked for the purpose of shoplifting⁵⁹.

212. The Belgian authorities have indicated that the principle of discretionary prosecution would be applied in other situations. For example, GRETA was informed that the prosecutor's office may decide not to prosecute a trafficking victim who was apparently constrained to use forged documents to enable his/her exploitation. It is noteworthy that, in a case involving young Nigerian women trafficked for the purpose of sexual exploitation, the judge held that the act of obliging these persons to declare a false identity and nationality to the Foreigners' Office, in order to apply for asylum, aggravated their exploitation⁶⁰.

213. Circular No. COL 1/2007 stipulates that "even if persons exploited within the framework of trafficking in human beings are in breach of social legislation or legislation governing access to, stay in and settlement on the territory, they should be considered above all as victims of forms of crime that must be combated as a priority". It also states that, when organising police checks to gather information on acts of trafficking, "sight must not be lost of the fact that the aim is to be able to prosecute those who organise trafficking in human beings or profit from it. It is advisable to avoid forms of checks that target victims or prostitutes or cause inconvenience to those persons that is disproportionate to this aim". The Belgian authorities have stated that the question of non-punishment of trafficking victims would be re-examined within the future revision of Circular No. COL 1/2007.

214. However, as pointed out in paragraphs 135 and 136, in some cases there is a risk that victims of trafficking might not be identified as such and be prosecuted for acts they have been forced to carry out by the traffickers, which is contrary to Article 26 of the Convention.

215. GRETA considers that the Belgian authorities should continue to take all appropriate steps to ensure that the possibility provided for in internal legislation not to impose sanctions on victims of trafficking for taking part in illegal activities when they have been constrained to do so is observed in accordance with Article 26 of the Convention. To that end, the Belgian authorities should in particular inform and make all judicial actors aware of this point and make an express reference to Article 26 of the Convention in the new version of Circular No. COL 1/2007 which is soon to be revised.

⁵⁸ Charleroi Criminal court, 3 June 2008, quoted in CECLR, Annual report on trafficking in and smuggling of human beings 2008, p. 71.

⁵⁹ Turnhout Criminal court, 17 November 2012.

⁶⁰ Ghent Appeal Court, 31 May 2007, case cited in CECLR, Annual report on trafficking in and smuggling of human beings 2007, p. 109.

c. Investigation, prosecution and procedural law

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

217. As mentioned in paragraph 28, the Federal Prosecutor's Office plays the role of co-ordinator of prosecutions at national level and facilitates international co-operation with the countries of origin. GRETA was told that, in the period 2005-2012, action against THB was not considered as a priority by the Federal Prosecutor's Office. However, the Belgian authorities have pointed out that, from 2012 onwards, the Federal Prosecutor's Office began to research national or international THB cases more actively in response to the priority given to this issue in the Action Plan 2012-2014 and that members of the Federal Prosecutor's Office would now be instructed to follow up these matters more specifically. **GRETA considers that the Belgian authorities should pursue their efforts to make trafficking in human beings a priority issue for the Federal Prosecutor's Office, given the important role it is required to play in national co-ordination and international co-operation in this area.**

218. As noted in paragraph 25, there are reference prosecutors specialised in THB at each prosecutor's office and labour law auditor's office. the public prosecutor's office can launch public prosecutions regardless of any complaint from the victim. To do so it has discretionary power (following the principle of discretionary prosecution). However, if the public prosecutor does not take action, the Code of Criminal Investigation (CIC) enables the victim to initiate a public prosecution, where applicable, by direct summons to appear before the trial court (Article 182 of the CIC) or by filing a civil lawsuit with the investigating judge (Article 63 of the CIC). In both cases, the prosecution is led by the public prosecutor's office.

219. The three specialised reception centres may join proceedings against traffickers. Since the adoption of the first law on trafficking in human beings in 1995, authorised associations may institute legal proceedings, in their own name or on behalf of victims who mandate them to this effect, in all THB cases. To obtain authorisation, the associations must meet the following conditions: having legal personality; having a corporate mission of promoting action against trafficking in human beings, action against child pornography or the protection of human rights; and effectively and habitually providing services related to their corporate mission. As the specialised reception centres have the necessary authorisation (see paragraph 148), they regularly file suits alongside the victims in criminal proceedings against the perpetrators⁶¹. As regards the CECLR, it also has the possibility of filing civil suits against the perpetrators of trafficking and in 2012 it did so in 16 cases of trafficking in human beings, of which 11 related to sexual exploitation, four to economic exploitation and one where the victims were forced to shoplift. GRETA welcomes the existence of this mechanism enabling associations and the CECLR to closely follow judicial proceedings. The specialised reception centres are thus in a better position to assist the victims during the trial as well as outside the criminal proceedings and the CECLR may, in certain cases and to a certain extent, fill in if there is no victim having agreed to file a civil suit.

⁶¹ See also paragraph 186.

220. Detailed statistics on the application of trafficking-related criminal law provisions in terms of convictions have only been available since 2010, as the previous codification of offences did not make it possible to distinguish between trafficking in human beings and other offences such as smuggling of human beings. Data collection problems still subsist today (see also paragraph 89). For example, prosecutions initiated by labour law auditors concerning trafficking for the purpose of economic exploitation are not all listed. Considering only the statistics for 2011, the police figures show that a total of 343 reports of trafficking in human beings were recorded in 2011.

221. According to the Bench of Prosecutors General database, 358 prosecution files were listed as being opened in 2011, of which 170 related to trafficking for the purpose of sexual exploitation and 165 files related to trafficking for the purpose of exploitation of labour (the latter figure does not include the files opened by labour law auditors). There were also 14 files related to trafficking for the purpose of forcing the victim to commit an offence, eight for the purpose of exploitation of begging and one for the purpose of organ removal.

222. As regards convictions, the most recent information from the Belgian authorities covers the year 2011. Since convictions are registered manually, some records are still missing. Some 15% of the convictions are yet to be logged in the database and it is not known what proportion of those decisions might be accounted for by convictions for trafficking. The last data reveal that 68 convictions for trafficking in human beings were logged in the convictions database in 2011. At present, although it is possible to indicate the type of exploitation concerned, this information is not always filled in. However, of the files where this information does appear, at least 23 related to trafficking for the purpose of sexual exploitation, and 13 to trafficking for the purpose of economic exploitation. In addition, for the total of 68 convictions, an aggravating circumstance was found 116 times (35 relating to abuse of a person's vulnerability, 23 to habitual activity, 19 to participation in the activities of an association, 16 to fraudulent tactics, violence or constraint, 12 to criminal organisation, seven to an offence committed against a minor, two to an offence causing a disease or disability, one to abuse of authority and one to an offence committed by a public official in the exercise of their duties).

223. Circular No. COL 1/2007 sets the objective of co-ordinating and reinforcing the action of the police, labour inspection and prosecution services in the area of THB. Furthermore, a protocol on co-operation was concluded in 2001 and extended in 2010 between the Social Legislation Inspectorate Directorate General of the Federal Public Department of Employment and the Social Inspection Directorate General of the Federal Public Department of Social Security aimed at building awareness of acts of trafficking in human beings and better detecting them. To that end, checks targeting trafficking in human beings are carried out each year in the risk sectors (e.g. bars, massage parlours, construction sites) in each of the 27 judicial districts. Consultations between these two institutions, the prosecutor's office, the labour law auditor's office and/or the police services are organised on this subject at local level (regional and district). GRETA welcomes the determination shown by the Belgian authorities to carry out proactive investigations and prosecute acts of trafficking.

224. In addition to classical investigation techniques such as searches of premises and checks on bank accounts, special investigation techniques are available in connection with criminal proceedings for trafficking in human beings. Section III of the Code of Criminal Investigation provides for "special search methods" which, subject to certain conditions, may be used by a special unit within the federal criminal investigation police ("BTS officers"). These methods include the staking out of one or more people or places, infiltration (reserved for offences committed within the framework of a criminal organisation within the meaning of Article 324*bis* of the Criminal Code) and the use of informants. Phone-tapping and recording conversations are possible when investigating trafficking offences with aggravating circumstances.

225. GRETA reiterates the importance of special investigation techniques as set out in Recommendation Rec(2005)10 of the Committee of Ministers to member states on “special investigation techniques” in relation to serious crimes including acts of terrorism. Accordingly, GRETA welcomes the use of such techniques in criminal proceedings concerning trafficking in human beings. It further notes that in recent years the CECLR has emphasised the need to carry out financial investigations making it possible both to detect trafficking in human beings concealed behind complex legal constructs involving front-companies or the use of bogus self-employed workers and to freeze, seize and confiscate the assets and incomes of perpetrators of trafficking, including to compensate victims⁶². The Belgian authorities have included this objective in the Action Plan 2012-2014. In this connection, the Financial Information Processing Unit is a body tasked with analysing suspicious financial transactions reported to it and passing this information on to the judicial authorities when its analysis points to strong signs of laundering proceeds from certain forms of crime including trafficking in human beings⁶³. This unit regularly forwards information on possible acts of trafficking, which has already helped to bolster the effectiveness of prosecutions of traffickers. GRETA welcomes this state of affairs.

226. Difficulties have sometimes arisen in courts' interpretation and application of the Criminal Code in certain cases concerning acts of trafficking in human beings. These were primarily difficulties in distinguishing between Article 433*quinquies* of the Criminal Code (which covers trafficking in human beings for the purpose of exploitation of the prostitution of others) and Article 380 of the Criminal Code (which relates to recruitment and exploitation of prostitutes). One trial judge held that Article 433*quinquies*, paragraph 1, 1° was applicable only where a prostitution ring was concerned and not when the recruiter exploited someone for their own benefit, which came under Article 380 of the Criminal Code. However, in most cases, other judges have applied these two provisions concurrently to the same person and GRETA was told that, for some prosecutors, this coexistence of provisions posed no problem and in fact helped to strengthen their action in cases where the two offences were found. GRETA notes that the same kind of ambiguity could have arisen from the coexistence of Article 433*quinquies*, paragraph 1, 2°, prohibiting trafficking for the purpose of exploitation of begging, and Article 433*ter*, prohibiting exploitation of begging *per se* and to which the previous version of Article 433*quinquies* referred regarding the purpose of exploitation. Article 433*quinquies* was recently amended and no longer refers either to Article 380 or to Article 433*ter*. It is limited to prohibiting trafficking “for the purposes of exploitation of prostitution or other forms of sexual exploitation” on the one hand and “for the purposes of exploitation of begging” on the other hand. **GRETA considers that, following the recent amendments to Article 433*quinquies* of the Criminal Code relating to trafficking in human beings, the Belgian authorities should ensure that the judicial authorities are trained so that they are capable of determining which provisions should be applied in each case, in order to guarantee the effectiveness of Article 433*quinquies* of the Criminal Code and avoid confusion with other offences (see also paragraph 53).**

⁶² See, *inter alia*, the CECLR Annual report on trafficking in and smuggling of human beings: “Rapport annuel traite et trafic des êtres humains 2011. L’argent qui compte”, Brussels, October 2012.

⁶³ See the contribution on the financial approach to trafficking in human beings by Jean-Claude Delepiere, Chair of the Financial information processing unit (CTIF), *L’approche financière de la traite des êtres humains*, in CECLR, Annual report on trafficking in and smuggling of human beings, 2011, p. 32.

227. While there are police inspectors and prosecutors who specialise in action against human trafficking, investigating judges are not specialised and, in the view of a number of actors, some of them do not devote enough attention to action against trafficking in human beings⁶⁴. The CECLR has recommended a system of specialisation for investigating judges in trafficking in human beings since this could bring a significant added value to the action against this phenomenon. GRETA notes that judges are not specialised in action against trafficking in human beings either, nor are they made aware of how best to approach the complex phenomenon of THB. **GRETA considers that the Belgian authorities should increase training concerning trafficking in human beings for judges (both investigating judges and trial judges) required to examine trafficking cases with a view to achieving a more consistent application of the criminal provisions covering these offences, in particular by informing the actors concerned about the changes recently made to these provisions.**

d. Protection of victims and witnesses

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

229. As mentioned in paragraph 144, victims of trafficking in human beings benefiting from the specific protection procedure are accommodated by the specialised reception centres in discreet accommodation facilities. The reception centres are in contact with the judicial and police authorities should any problems arise. In addition, there are provisions safeguarding witness anonymity and protection which are applicable to cases of trafficking. The Law of 8 April 2002 incorporates provisions in the Code of Criminal Investigation ensuring the partial or full anonymity of witnesses during criminal proceedings. Pursuant to the Law of 2 August 2002 on the taking of statements via audio-visual media, hearings via video-link are possible subject to certain conditions for witnesses under threat or witnesses living abroad. It is also possible to run video-link hearings with the blurring of images for protected witnesses. The Belgian authorities have stated that, while these procedures do exist, they are used only in exceptional circumstances. Generally speaking, within the work carried out by the reception centres, the use of these techniques is not specifically necessary. This may be due to certain positive aspects of the procedure (the victims are not obliged to give testimony, they may also be represented by associations, etc.) but also to *de facto* situations that make anonymity difficult to guarantee (when the victim was the only person exploited, etc.).

230. In addition, the Law of 7 July 2002 laying down rules for protection of witnesses under threat together with other provisions introduces a mechanism for providing witnesses with police protection. Accordingly, when a witness is threatened, the Witness Protection Commission may offer protection measures to that witness, the members of their family and other relatives. These protection measures entail protecting the witness' records held by the civil status service, setting up an alarm procedure, organising police patrols, providing close and immediate protection for the witness or providing them with another place of residence for 45 days. In exceptional cases, the Commission may also take special protection measures, which include offering the witness another safe place of residence for longer than 45 days or a definitive or, since 2011, temporary change of identity. The Witness Protection Service of the federal criminal investigation police is responsible for co-ordinating the protection measures. However, since this mechanism came into existence, it has been implemented only once for a victim of trafficking in human beings.

⁶⁴ Centre for equal opportunities and opposition to racism, annual report on trafficking in and smuggling of human beings, "*Rapport annuel Traite et trafic des êtres humains 2011. L'argent qui compte*", Brussels October 2012, p. 110

231. Concerning minors in particular, the Code of Criminal Investigation stipulates that a minor victim or witness of a trafficking offence is entitled to be accompanied by the adult of their choice in any hearing carried out by the judicial authority, unless decided otherwise in respect of that person, by the public prosecutor's office or investigating judge in the interest of the minor or the disclosure of the truth. In certain cases, notably where sexual exploitation is involved, the prosecutor or investigating judge may also decide to have an audio-visual recording made of the hearing of the minor victim in a courtroom specially equipped for that purpose. The hearing may also be held *in camera* in the interests of the minor by decision of the judge.

232. As stated in paragraph 195, victims of trafficking not wishing or unable to co-operate with the judicial authorities are sometimes obliged to return to their country of origin. The Belgian authorities have reported difficulties in ensuring the continuity of protection when the victim leaves Belgian territory and co-operation with the law enforcement agencies in countries of origin is not always easy in this matter.

233. While welcoming the existence of a system of witness protection, **GRETA considers that the Belgian authorities should:**

- **make full use of the existing procedural measures aimed at protecting victims and witnesses within the meaning of the Convention, to avoid them being subjected to intimidation and reprisals throughout and after the criminal procedure, paying special attention to children;**
- **ensure that victims are duly informed of existing protection measures, and that international co-operation tools are reinforced and effectively deployed when persons in danger live abroad.**

5. Concluding remarks

234. GRETA notes with satisfaction that the Belgian authorities have established a legal framework and created specialised structures with a view to combating trafficking in human beings and assisting its victims. Belgian anti-trafficking policy has been progressively reinforced and supplemented, notably through the two national plans of action against human trafficking. The Belgian authorities have placed emphasis on the specialisation and training of the professionals concerned and on the involvement of NGOs in the provision of assistance to victims. Furthermore, GRETA welcomes the regular assessments carried out by the authorities and the annual assessment produced by an independent authority, which have resulted in improvements to the mechanisms in place.

235. However, GRETA notes that Belgium is confronted with a change in the profile of trafficking victims and must adapt the assistance originally envisaged for foreign victims unlawfully present on its territory to cater for victims who may be of Belgian nationality or EU nationals. Moreover, further political, legislative or practical measures must be taken to meet the requirements of the human rights-based and victim-centred approach underpinning the Convention, particularly in the areas of prevention, identification, assistance and repatriation of victims.

236. GRETA draws attention to the need to adapt current anti-trafficking policies to take account of the particular vulnerability of children to trafficking. Additional measures are required to build on the prevention initiatives aimed at groups present in Belgium which are vulnerable to trafficking. The Belgian authorities must also build public awareness and train the professionals working on the ground with regard to trafficking issues, to avoid negative attitudes towards trafficking victims and any risk of confusing them with petty offenders or migrants illegally present on the territory. Steps should also be taken to discourage demand for services provided by persons subjected to trafficking.

237. In addition, it is the responsibility of the Belgian authorities to ensure that all trafficked persons are duly detected and referred with a view to them being identified as victims of trafficking and being able to benefit from the assistance and protection provided for in the Convention and Belgian legislation. Further improvement of the machinery in place is required to guarantee effective access to certain measures such as the possibility for victims to receive assistance from a specialised reception centre for trafficking victims as soon as they are detected and to effectively benefit from a recovery and reflection period.

238. GRETA welcomes the efforts made by the Belgian authorities in connection with the prosecution of traffickers. Efforts should be pursued in the area of training for judges and protection of victims and witnesses, in order to make those prosecutions more effective.

239. GRETA invites the Belgian authorities to keep it regularly informed of developments concerning the implementation of the Convention and looks forward to continuing its fruitful co-operation with them in order to achieve the aims of the Convention.

Appendix I: list of GRETA's proposals

Comprehensive approach and co-ordination

1. GRETA considers that the Belgian authorities should continue to inform and raise awareness among the general public and the non-specialised departments involved in action against trafficking that may come into contact with trafficking victims as regards the scope of the definition of trafficking in human beings and in particular the difference and the links between trafficking and migrant smuggling.
2. In order to ensure that action against trafficking is comprehensive and coherent, GRETA considers that the Belgian authorities should:
 - ensure that the new body taking over from the CECLR has, as far as anti-trafficking action is concerned, the necessary autonomy, mandate and resources to continue fulfilling the role of stimulating and assessing anti-trafficking policy within the meaning of Article 29, paragraph 4, of the Convention, as well as of co-ordinating the provision of assistance to victims of trafficking;
 - increase vertical and horizontal co-ordination between the different authorities involved in action against trafficking in human beings, including those responsible for the assistance and protection of victims of trafficking, particularly concerning children;
 - ensure that more attention is paid to the issue of trafficking of children.

Training of relevant professionals

3. GRETA considers that the Belgian authorities should pursue and further increase these efforts, in particular concerning the initial training of police officers who are not specialised in THB, including those who are responsible for receiving complaints, taking into account the turn-over of staff in administrations. Future training programmes should be designed with a view to improving the knowledge and skills of relevant professionals which enable them to identify victims of trafficking, to assist and protect them, to facilitate compensation for victims and to secure convictions of traffickers.

Data collection and research

4. GRETA considers that, for the purpose of devising, supervising and assessing anti-trafficking policies, the Belgian authorities should design and bring on stream a complete, coherent statistics system on trafficking in human beings, bringing together reliable statistical data sourced from all the key actors which can be broken down (by sex, age, type of exploitation, country of origin and/or destination, etc.). The introduction of this system should be accompanied by all necessary measures to ensure respect of the right of the persons concerned to personal data protection.
5. GRETA invites the Belgian authorities to carry out and support research work on THB-related issues, the findings of which can assist the public authorities in devising future anti-trafficking measures. The areas where more in-depth research is necessary include the situation of children victims of trafficking from European countries, in particular Roma, trafficking for the purpose of exploitation of begging and internal trafficking in Belgium.

International co-operation

6. GRETA encourages the Belgian authorities to continue to develop international co-operation in the area of prosecution and their initiatives to prevent trafficking and assist victims in the countries of origin.

Measures to raise awareness

7. GRETA considers that the Belgian authorities should build greater awareness among the general public of the different types of trafficking and victims. To do so, the authorities should organise targeted information and awareness-raising initiatives, involving civil society and making use of the findings of research and impact assessments.

Measures to discourage demand

8. GRETA urges the Belgian authorities to increase their efforts to discourage demand for services provided by persons subjected to trafficking for the purpose of economic exploitation, including the purposes of domestic work, or sexual exploitation.

Economic, social and other empowerment measures for groups vulnerable to THB

9. GRETA urges the Belgian authorities to take social, economic and other initiatives aimed at groups vulnerable to different types of trafficking, such as unlawfully present foreign minors, whether accompanied by their family or not.

Border measures and measures to enable legal migration

10. GRETA considers that the Belgian authorities should increase the capacity of staff tasked with carrying out checks at borders, in ports and on motorways (particularly the customs and immigration control services) to detect and refer victims of trafficking.

11. Further, GRETA encourages the Belgian authorities to continue to ensure that all information on conditions of entry to and stay on Belgian territory is available in a variety of languages so that it may be understood by those it is addressed to.

Identification of victims of trafficking in human beings

12. GRETA considers that the Belgian authorities should:

- strengthen the detection and identification of victims of trafficking, by ensuring that the tools available are fully known to front-line actors and correctly used by all actors;
- develop training in the detection and identification of victims aimed at police officers, employees of labour inspection services, public prosecutors and judges, particularly with a view to avoiding confusion between victims of trafficking, including those from vulnerable groups, and petty offenders or illegal migrants;
- develop training in the detection and identification of victims aimed at all front-line actors such as immigration officers, medical staff, social workers, public social welfare centres (CPAS) staff, those involved in child protection and particularly and legal guardians of unaccompanied children, the staff of closed centres for irregular migrants and centres for asylum seekers.

13. GRETA urges the Belgian authorities to strengthen the detection and identification of child victims of trafficking, particularly for the purpose of forced begging and committing petty offences and crimes and, to that end, adapt the existing tools or introduce mechanisms and a procedure tailored to their specific situation.

14. Furthermore, GRETA considers that the Belgian authorities should focus greater attention on detection and identification of trafficking victims who are of Belgian nationality, EU nationals or legally resident on Belgian territory, including by raising awareness of trafficking issues among the front-line actors coming into contact with them and explaining to these actors how to proceed and to whom to refer the victim in suspected cases of trafficking.

Assistance to victims

15. GRETA urges the Belgian authorities to:

- ensure that the assistance offered to victims of trafficking is adapted to their needs, particularly when these victims are in need of immediate assistance. As this assistance is delegated to NGOs playing the role of service providers, the State is under obligation to allocate the necessary funding and guarantee the quality of the services provided by those NGOs;
- continue training and informing actors on the ground as regards the assistance available to victims of trafficking in human beings so that, as soon as a potential victim is detected, they refer that person to the competent services; and in this connection, to pursue efforts to inform those actors of the existence and content of the Circular on multidisciplinary co-operation where assistance is concerned;
- review the current system of assistance in order to adapt it wherever necessary to each victim's specific needs, paying particular attention to the special situation of child victims, victims who are EU nationals and those of Belgian nationality.

Recovery and reflection period

16. GRETA urges the Belgian authorities to ensure that victims and possible victims of trafficking are systematically informed of the possibility of benefiting from a recovery and reflection period and are actually granted one.

17. Furthermore, GRETA considers that the Belgian authorities should revise the current form of the reflection period granted to adult trafficking victims entailing an order to leave the territory by a certain date and transform it into a temporary residence permit.

Residence permits

18. GRETA considers that the Belgian authorities should ensure that victims of trafficking can make full use of the possibility of obtaining a temporary stay permit in Belgium, in particular when they are not in a position to co-operate with the authorities.

19. GRETA also considers that the Belgian authorities should take additional steps to ensure that child victims of trafficking may be granted a residence permit on the basis of their best interest and not of their willingness or ability to co-operate with judicial bodies.

Compensation and legal redress

20. GRETA considers that the Belgian authorities should adopt measures to facilitate and guarantee access to compensation for victims of trafficking, and in particular:

- ensure that those victims of trafficking who leave Belgium may nevertheless obtain compensation, including via the Fund for financial aid for victims of intentional acts of violence;
- ensure that all victims of trafficking, including for the purpose of economic exploitation, have an effective access to this Aid Fund framework or to another system of compensation fund;
- enable victims to uphold their rights to compensation, by guaranteeing them effective access to legal assistance and reliable interpreting services.

21. In addition, GRETA invites the Belgian authorities to introduce a system for recording the applications lodged for compensation as well as the compensation awards obtained by victims of trafficking.

Repatriation and return of victims

22. GRETA urges the Belgian authorities to:

- ensure that there are repatriation assistance arrangements suitable for all victims of trafficking, regardless of whether they are from EU Member States or not and irrespective of their status regarding residence permits for victims of trafficking, with due regard for the rights, safety and dignity of the person concerned and the state of judicial proceedings; this also implies protection against reprisals and against re-trafficking;
- carry out an assessment of the risks of re-victimisation specific to children, paying special attention to children who are EU nationals and have been victims of trafficking, and systematically taking due account of the best interests of the child;
- strengthen co-operation with the countries to which victims of trafficking return, with a view to improving their reintegration and rehabilitation.

Substantive criminal law

23. GRETA invites the Belgian authorities to consider the possibility of criminalising the use of services of a person in the knowledge that that person is a victim of trafficking in human beings, not only in cases of economic exploitation but also for the other purposes of exploitation covered by the Convention.

24. GRETA invites the Belgian authorities to ensure that acts of intentionally retaining, removing, damaging or destroying another person's travel or identity documents with the aim of permitting THB may be criminalised as such.

Non-punishment of victims of trafficking in human beings

25. GRETA considers that the Belgian authorities should continue to take all appropriate steps to ensure that the possibility provided for in internal legislation not to impose sanctions on victims of trafficking for taking part in illegal activities when they have been constrained to do so is observed in accordance with Article 26 of the Convention. To that end, the Belgian authorities should in particular inform and make all judicial actors aware of this point and make an express reference to Article 26 of the Convention in the new version of Circular No. COL 1/2007 which is soon to be revised.

Investigation, prosecution and procedural law

26. GRETA considers that the Belgian authorities should pursue their efforts to make trafficking in human beings a priority issue for the Federal Prosecutor's Office, given the important role it is required to play in national co-ordination and international co-operation in this area.

27. GRETA considers that, following the recent amendments to Article 433*quinquies* of the Criminal Code relating to trafficking in human beings, the Belgian authorities should ensure that the judicial authorities are trained so that they are capable of determining which provisions should be applied in each case, in order to guarantee the effectiveness of Article 433*quinquies* of the Criminal Code and avoid confusion with other offences.

28. GRETA considers that the Belgian authorities should increase training concerning trafficking in human beings for judges (both investigating judges and trial judges) required to examine trafficking cases with a view to achieving a more consistent application of the criminal provisions covering these offences, in particular by informing the actors concerned about the changes recently made to these provisions.

Protection of victims and witnesses

29. GRETA considers that the Belgian authorities should:

- make full use of the existing procedural measures aimed at protecting victims and witnesses within the meaning of the Convention, to avoid them being subjected to intimidation and reprisals throughout during and after the criminal procedure, paying special attention to children;
- ensure that victims are duly informed of existing protection measures, and that international co-operation tools are reinforced and effectively deployed when persons in danger live abroad.

Appendix II: List of Public Bodies and intergovernmental and non-governmental organisations with which GRETA held consultations

Public bodies

- State Secretary on Asylum and Migration
- Federal Public Department of Justice:
 - Crime Policy Department
 - Directorate General of Legislation, Freedoms and Fundamental Rights
- Federal Public Department of the Interior :
 - Central Office for THB Affairs, Federal Police
 - Office for Organised Crime Affairs, Federal Police
 - Foreigners' Office
- Federal Prosecutor's Office, Bench of Prosecutors General, public prosecution services of Antwerp, Brussels, Liege and Verviers
- Federal Public Department of Foreign Affairs, Foreign Trade and Development Co-operation
- Directorate General of Supervision of Social Legislation, Federal Public Department of Employment, Labour and Social Dialogue
- Social Inspection Directorate, Federal Department of Social Security
- Fedasil (Federal Agency for Reception of Asylum Seekers)
- Centre for Equal Opportunities and Opposition to Racism
- Working Group on THB of the Senate
- Flemish Region Authorities
- Child Rights Commission of the Flemish Community
- Child Rights General Delegate of the French Community
- First Instance Court and Court of Appeal of Liege
- Local and Federal Police of Liege and Federal Police of Antwerp
- Province of Liege Social House
- Social Inspection Directorate and Social Supervision Directorate of Liege
- Public Social Welfare Centres (CPAS) of Antwerp and Liege
- Province of Liege Working Group on THB

Intergovernmental Organisations

- United Nations High Commissioner for Refugees (UNHCR) Brussels
- International Organization for Migration (IOM Brussels)

Non-governmental organisations

- ECPAT Belgique
- Esperanto asbl
- Fondation pour Enfants Disparus et Sexuellement Exploités Child Focus
- Fondation Samilia
- Kinderrechtencoalitie Vlaanderen
- Minor-Ndako vzw
- PAG-ASA asbl/vzw
- Payoke vzw
- Plate-forme Mineurs en exil
- Sürya asbl

Government's comments

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

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

The Convention requires that "the report and conclusions of GRETA shall be made public as from their adoption, together with eventual comments by the Party concerned." GRETA transmitted its final report to the Belgian authorities on 23 July 2013 and invited them to submit any final comments. The Belgian authorities' comments, submitted on 10 September 2013, are reproduced hereafter.

Response of the Kingdom of Belgium to the GRETA Report

Belgium has acknowledged receipt of the final report prepared by the Group of Experts on Action against Trafficking in Human Beings.

The dialogue between the Belgian authorities, along with other institutional or civil society partners, and the members of GRETA was constructive and appreciated. It is consequently happy that this process, commenced at the beginning of 2012, is on its way to completion with the publication of this document.

Belgium also wishes to thank everyone who contributed to the writing of this very comprehensive report.

It can confirm here that the recommendations will be examined carefully, mainly by the Interdepartmental Coordination Cell on Action against Trafficking in Human Beings and its Bureau.

A certain number of the recommendations build on problems identified under the 2012-2014 action plan and therefore obviously are to be met.

Other recommendations are new and form part of a medium-term perspective. It goes without saying that they will be discussed and scheduled when preparing new initiatives.

The Belgian authorities naturally remain available to GRETA for future exchanges of information and assessments.

Given that once the final report has been handed over the Belgian authorities are still entitled to issue comments, the Group of Experts are asked to consider a few observations listed below.

1. General observations

Belgium believes that GRETA should be more clear on how it decides whether or not there is compliance with the provisions of the Convention. The provisions of the Convention are in general legally met in Belgium and GRETA frequently makes recommendations that are more concerned with elements to improve the execution of provisions. This could appear more clearly in how the reports are prepared. It is not always very clear whether GRETA is making its comments in relation to elements resulting from an obligation to transpose the Convention or if this involves more a recommendation with a wider scope. More clarity could come from a structure that sets out whether or not the minimum provisions of the Convention are met, with suggestions for improvement laid out under a separate heading.

2. Special observations

General summary. (P. 7): In the second paragraph of the general summary, it would have been advisable to mention the Department of Justice in the list of institutions, given that this department is in charge of coordinating the action against trafficking in human beings and of monitoring legislation, especially in terms of incrimination.

12. *However, the aforementioned figures concern only detected cases of trafficking and victims identified as such by the authorities. They do not fully reflect the situation regarding trafficking in human beings in Belgium, in particular because of its fluctuating and clandestine nature. Later on in the report GRETA refers to cases where there are reasons to believe that certain forms of trafficking or certain categories of victims are not adequately detected (see paragraphs 134 to 137).*

Paragraph 12 raises the question of the "off-the-record figures" for crime, a problem well-known in criminological studies. In itself, the observation made in this paragraph may be standardised as it is not specific to the situation in Belgium alone. It is a well-known fact that an exhaustive knowledge of criminality is impossible, regardless of the crime in question. Conversely, it goes without saying that an effort can always be made to increase the ability to identify the victims, which the authorities achieve by developing miscellaneous initiatives such as, for example, the brochure for the medical sector or information sheets for social assistants in asylum-seeker centres.

53. *GRETA notes that the means are not a constituent component of the definition of THB in the Belgian legislation, but are considered as aggravating circumstances. While acknowledging that this may contribute to making the prosecution of traffickers easier in terms of evidential requirements, GRETA stresses the need for the Belgian authorities to keep under review whether this may lead to confusion with other criminal offences, or to possible difficulties regarding mutual assistance in the anti-trafficking field with countries which have incorporated the means in their own definition of THB and as to the interpretation of Article 4(b) of the Convention concerning victim's consent.*

GRETA was told that the choice of a "broad" definition was discussed at length in 2005. The central idea of the definition is to focus on the concept of exploitation. At the time, all players were very aware that there could be an element of risk in choosing this option. However, the authorities remained alert to the use of incrimination and today there is nothing to suggest abusive use of the definition. The various assessments have not so far revealed any particular problems. In any case, theoretically, convictions for trafficking in human beings are normally obtained by establishing at least one of the aggravating circumstances considered as means of trafficking in international definitions.

In terms of mutual assistance in criminal matters, Belgium has always successfully used international, bilateral and multilateral extradition instruments (from or to member or non-member European Union countries) and legislation on the European arrest warrant (that does not require dual incrimination for trafficking offences committed within the European Union). It has never encountered any difficulty potentially resulting from a divergence of offences. The Criminal Mutual Assistance Department of SPF Justice believes it important to underline that the question of possible hindrance to mutual assistance is more theoretical than practical. A trafficking offence is also often perpetrated through other offences (exploitation of prostitution, assault and battery, forgery, smuggling of immigrants, etc.), which, if appropriate, could by themselves justify a request for mutual assistance.

The Belgian authorities will nevertheless remain alert to any potential difficulties in enforcing the offence.

64 and 108. GRETA considers that the Belgian authorities should build greater awareness among the general public of the different types of trafficking and victims. To do so, the authorities should organise targeted information and awareness-raising initiatives, involving civil society and making use of the findings of research and impact assessments.

Belgium will continue to develop information and awareness-raising tools. It is true that the first two action plans focused above all on implementing targeted actions rather than general awareness-raising campaigns. The Bureau of the Interdepartmental Coordination Cell on Action against Trafficking in Human Beings really does pay special attention to potential initiatives, but also notes that there is a general lack of actual impact studies on the range of global campaigns. A close watch should be kept on these various questions. Too general a campaign may describe a huge number of situations that have absolutely no bearing on trafficking in human beings and can then cause a loss of effectiveness in the time and means devoted to actual victims of this trafficking. For this reason, it seems important for an awareness-raising tool to be sufficiently detailed to impart adequate understanding of the phenomenon. Certain over-simplified messages do not meet this requirement. Effectiveness and efficiency criteria are borne in mind in the initiatives developed. It would seem that this framework should be applied a more general initiative.

73. GRETA is pleased to note that the Belgian anti-trafficking policy is assessed on a regular basis. In particular, the anti-trafficking legislation places the government under obligation to report to Parliament every two years on the application of that legislation and on action against trafficking in human beings in general. This biennial report is prepared by the Crime Policy Department of the Federal Public Department of Justice. The last biennial report published was the Report of the Government on Action against Trafficking in Human 2009-2010.

It should also be mentioned that the Bureau of the Interdepartmental Coordination Cell on Action against Trafficking in Human Beings carries out certain specific assessments that assume work between different departments. The Bureau thus assessed in 2010 and 2011 the application of the circular on implementing multidisciplinary cooperation about the victims of trafficking in human beings and/or certain aggravated forms of smuggling of human beings (assessment in fact quoted in 151).

77. - ensure that the new body taking over from the CECLR has, as far as anti-trafficking action is concerned, the necessary autonomy, mandate and resources to continue fulfilling the role of stimulating and assessing anti-trafficking policy within the meaning of Article 29, paragraph 4, of the Convention, as well as of co-ordinating the provision of assistance to victims of trafficking;

It was indicated in each response submitted to GRETA that there would be no change in federal expertise of CEOOR in terms of trafficking in human beings under the planned reform. In addition, the draft bill adapting the Law of 15 February 1993 creating a Centre for Equal Opportunities and Opposition to Racism with a view to converting it into a Federal Centre for analysis of migratory flows, protection of fundamental rights of foreigners and action against trafficking in human beings was adopted by the Chamber of Representatives and the Senate on 17 and 18 July 2013 respectively, without actually altering the existing missions in terms of trafficking in human rights. This law will only enter into force after voting on the other aspect of the reform, namely the interfederalisation of other CEOOR expertise. In this case, existing expertise has not been affected, as has already been stated in terms of trafficking in human beings, be it in one or other situation.

101. *Each year in Belgium various events are organised to celebrate the European anti-trafficking day (18 October). A press briefing was held in 2009, for example, under the aegis of the Bench of Prosecutors General to widely publicise investigations, prosecutions and sanctions in trafficking cases and draw attention to the initiatives carried out at judicial level to combat this phenomenon. Another example was a colloquy organised by the Belgian authorities in co-operation with the Samilia Foundation in 2010 on trafficking in human beings for the purpose of economic exploitation. A short film entitled "10 minutes" portraying the fate of a young Bulgarian woman forced into prostitution in Belgium was presented by the CECLR, the three specialised reception centres and the Samilia Foundation on the occasion of the European anti-trafficking day 2008.*

The conference held on 18-19 October 2010, "Towards a multidisciplinary approach to prevention of trafficking in human beings, prosecution of traffickers and protection of victims?" under actions on Anti-Trafficking Day is also worth mentioning. This was organised by the Belgian Presidency of the European Union and prepared by the Bureau of the Interdepartmental Coordination Cell on Action against Trafficking in Human Beings in conjunction with the Centre for European and International Policy Action (CEIPA), with logistical support from the European Commission.

103. *A brochure aimed at raising awareness among hospital staff concerning the trafficking problem ("Trafficking in human beings - what to do? Advice for hospital staff"), prepared by the interdepartmental unit, has been distributed in all Belgian hospitals. Accompanying posters have also been put up in hospitals. GRETA welcomes this good practice concerning hospital staff as it believes that it is important to raise awareness of those actors who may play a significant role in detecting victims of THB.*

Mention could also be made of the "work visa" flyer made available to some Belgian embassies under the responsibility of the SPF Foreign Affairs. The "work visa" flyer can be slipped into the passport when applying for a work visa. It advises the applicant on what is trafficking in human beings and how to react either as a prevention or once on Belgian soil (a few institutions to contact, etc.).

134. *However, shortcomings persist in the identification of victims. GRETA is concerned over the difficulties reported relating to the identification of child victims of trafficking. One of the problems faced is rooted in the critical lack of capacity for receiving unaccompanied foreign children in Belgium, coming from EU Member States or not. Owing to a lack of space in dedicated structures, these children end up in inappropriate accommodation facilities or even on the streets, where they run the danger of falling into the hands of traffickers and, moreover, the detection of trafficking is made more difficult. The Committee on the Rights of the Child has expressed deep concern that child victims of trafficking are not accommodated or protected as they should be and could, as a result, disappear from reception centres and/or end up on the streets. Cases where unaccompanied children have disappeared from accommodation centres are particularly worrying. Several sources emphasised the particular vulnerability of these children, who risked becoming victims of trafficking or being re-victimised owing to a lack of appropriate supervision. GRETA believes that those involved in child protection (particularly legal guardians, the guardianship service, the centres for observation and referral of unaccompanied foreign minors, the reception centres for unaccompanied foreign children not specialising in victims of trafficking) should be better trained in detecting and referring child victims. The Belgian authorities have stated that they are currently assessing the Circular on multidisciplinary co-operation as regards the detection and referral of unaccompanied foreign minors who are, or are at risk of, becoming victims of trafficking. This evaluation is to be finalised in July 2013. As indicated in paragraph 85, a training session on the issue of THB for social workers of several reception centres for unaccompanied foreign children is to be organised.*

Whereas, indeed, the minors' identification process must be improved further, some elements of the paragraph can also be qualified.

Firstly, not all young people who were accommodated outside reception structures during the main "reception crisis" faced by Belgium were specifically minors. Secondly, not all unaccompanied minors were trafficking victims. Specific accommodation exists for minors who are victims of trafficking in human beings as stated in the GRETA report (no. 143). In addition, the reference to the observations by the Committee on the Rights of the Child is based on a 2010 document which was itself prepared on the basis of a situation prior to this same year.

On the other hand, efforts must clearly continue to improve raising the awareness of staff to a certain number of non-specialist reception services in terms of trafficking in human beings. The Belgian Government has already reported that a first training session took place in an observation and orientation centre for unaccompanied foreign minors. The training sessions will continue in 2013 and 2014 driven by FEDASIL and the Foreign Office (the first session is scheduled for 19 September 2013). In addition, a summary sheet focusing on the issue of minors who are victims of trafficking in human beings has been finalised with the Bureau of the Interdepartmental Cell and will be distributed during the training sessions. This sheet repeats the basic elements on the forms of trafficking in human beings, indicators and the contact details for reception centres. The assessment of the "minors" section of the multidisciplinary circular is completed but must now be submitted to the coordination bodies for discussion.

137.-140. Finally, there is not sufficient attention devoted to the Belgian victims in Belgium since the system of victim protection is geared to foreign victims and particularly those illegally present. The CECLR frequently points out that Belgian victims of trafficking, notably for the purpose of sexual exploitation, may also exist, particularly persons made vulnerable by drug dependency or groomed by "loverboys", i.e. men seducing young women and who, once the relationship has started, force the woman to prostitute herself in order to benefit from the income of this forced prostitution.

There is of course a need for initiatives to identify potential Belgian victims. However, it must be remembered that many cases of internal trafficking are identified every year, which also illustrates that players are very aware of this issue. This could however be strengthened, mainly by addressing the issue of Belgian victims in the 2008 multidisciplinary circular, which makes no direct reference to this. The definition of trafficking in human beings is unequivocal, whether it is referring to domestic or external trafficking.

Lastly, it seems important at the current time to remain prudent when formulating certain assertions that remain altogether "conditional". The nationals have a better knowledge of the job market regulations, have easier access to the support services offered by the State and are simply socially integrated or have a minimum social network. It is however true that identified Belgian victims normally belong to relatively marginalised environments and more attention should therefore be given to this.

146. *The Circular on multidisciplinary co-operation therefore stipulates that the Esperanto, Minor Ndako and Juna associations provide accommodation for minor victims and the same types of assistance (legal assistance, psychological assistance, etc.) as that granted to adult victims in collaboration with the three specialised reception centres for victims of trafficking. Furthermore, when the children are unaccompanied foreign children from a non-European country, legal guardians are appointed to represent them in all procedures. However, only the three specialised reception centres (Pag-Asa, Payoke and Sürya) are authorised to lodge an application for a trafficking victim residence permit granted for children. The fact that the children are housed in a centre which is not the one lodging the request complicates the procedure and multiplies the number of stakeholders in contact with a child victim of trafficking.*

The centres for minors are currently competent for the accommodation aspect, but theoretically not for the administrative and legal monitoring (which is carried out by the three recognised reception centres). This choice has been made to date to avoid complicating the victim return mechanisms and to centralise the processing of their file as much as possible. GRETA notes that this may cause administrative complications. The arguments are considered valid on this point and that in any case it is important to remain alert to these questions.

149. *Although the specialised reception centres for victims of trafficking are entrusted with a key mission of assistance for those victims and are officially recognised since the Royal Decree of 18 April 2013, they do not have structural and permanent funding support from the Belgian State enabling them to fulfil that mission. The Royal Decree states that official recognition does not carry an entitlement to subsidies. Every year they have to ask for subsidies from various institutions, including the local authorities, to be able to fund their activities. The Belgian authorities have stated that structural funding (i.e. of a perennial nature) for the three specialised reception centres is currently under discussion within the government.*

This paragraph seems erroneous or at any rate ambiguous in certain of its points.

Although non-structural, the financing paid every year to the reception centres has always allowed them to fulfil their mission.

As explained to GRETA, different budgetary lines are used to finance reception centres, but problems may arise through the fluctuation of these budgetary lines, the fact that the reception centres must request a renewal of their budget every year and the uncertainty surrounding this. Hence, indeed, the question of more structured financing.

Although it is important to reflect on this issue, the fact remains that the annual nature of the budget is public policy in Belgium and is in principle the rule applied by most States throughout the world. In one way or another, it would be difficult to get away from an annually-based organisation. Belgium must in any case make sure that the missions entrusted to the reception centres can continue in practice and envisage other options if technically possible to facilitate the actual granting of these budgets and structure them better.

156. *In GRETA's view, the "order to leave the territory" valid for 45 days which constitutes the authorisation allowing adult victims to stay in the country for the purpose of recovering and reflecting should be renamed. Although this authorisation allows victims to benefit from a recovery and reflection period, it does not reflect the spirit in which it should be granted, i.e. the absence of pressure on the victim allowing them to take a decision calmly. The Belgian authorities have informed GRETA that a proposal would be sent to the competent ministers, suggesting the abolition of the "order to leave the territory" and the issuing of a specific document to the potential victim during the 45-day reflection period (either a "declaration of arrival" or a "certificate of registration,), with a possibility of extension for a maximum period of 15 days, by decision of the Foreigners' Office and at the express request of the specialised centre for THB victims. Other partners will have to be consulted over the proposal: the administration responsible for issuing work permits, the public welfare centre (CPAS), the support centres and the CECLR. The Law on Foreigners will also have to be amended.*

The Belgian authorities have already identified this issue under various assessments, especially the one covering the 2008 multidisciplinary circular that mentions this observation. It must also be indicated here that the Convention requirements are met legally but there is actually potential for improving the system.

In addition, GRETA omitted the Bureau of the Interdepartmental Cell from the list of partners to be consulted. This type of modification is initially discussed between the partners involved in policy coordination.

176. *GRETA considers that the Belgian authorities should ensure that victims of trafficking can make full use of the possibility of obtaining a temporary stay permit in Belgium, in particular when they are not in a position to co-operate with the authorities.*

The rules applicable in Belgium comply with the stipulations of the Convention. It is clear, however, in certain areas that new provisions could prove useful. This is true, for example, in organising guardianship for unaccompanied European minors.

235. *However, GRETA notes that Belgium is confronted with a change in the profile of trafficking victims and must adapt the assistance originally envisaged for foreign victims unlawfully present on its territory to cater for victims who may be of Belgian nationality or EU nationals. Moreover, further political, legislative or practical measures must be taken to meet the requirements of the human rights-based and victim-centred approach underpinning the Convention, particularly in the areas of prevention, identification, assistance and repatriation of victims.*

Belgium is not alone in being concerned by this. This conclusion was in actual fact already reached in various assessments and is also recorded in the national action plan 2012-2014. New problems and challenges affecting the entire European Union have appeared as it is enlarged. They have been identified internally fairly quickly but solutions are not always obvious. Lastly, it is clear that initiatives still have to be taken, but the authorities are paying attention to developing them under a multidisciplinary analysis of new problems appearing, so as to adapt the responses brought as matters progress.