



EVALUATION REPORT

NETHERLANDS

Third evaluation round

G R E T A

Group of Experts
on Action against
Trafficking
in Human Beings

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

GRETA(2023)15
Published on 9 November 2023



COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

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

trafficking@coe.int

www.coe.int/en/web/anti-human-trafficking

Table of contents

Preamble	4
Executive summary	7
I. Introduction	9
II. Overview of the current situation and trends in the area of trafficking in human beings in the Netherlands.....	11
III. Developments in the legislative, institutional and policy framework for action against human trafficking.....	12
IV. Access to justice and effective remedies for victims of human trafficking	15
1. Introduction	15
2. Right to information (Articles 12 and 15)	17
3. Legal assistance and free legal aid (Article 15).....	19
4. Psychological assistance (Article 12).....	20
5. Access to work, vocational training and education (Article 12)	21
6. Compensation (Article 15).....	22
7. Investigations, prosecutions, sanctions and measures (Articles 22, 23 and 27).....	24
8. Non-punishment provision (Article 26)	29
9. Protection of victims and witnesses (Articles 28 and 30)	30
10. Specialised authorities and co-ordinating bodies (Article 29).....	31
11. International co-operation (Article 32)	33
12. Cross-cutting issues.....	34
a. gender-sensitive criminal, civil, labour and administrative proceedings.....	34
b. child-sensitive procedures for obtaining access to justice and remedies.....	34
c. role of businesses	35
d. measures to prevent and detect corruption.....	36
V. Follow-up topics specific to the Netherlands	36
1. Data collection and data protection	36
2. Measures to prevent and combat trafficking for the purpose of labour exploitation ..	37
3. Measures to raise awareness of human trafficking and to discourage demand	42
4. Identification of victims of trafficking	44
5. Assistance to victims of trafficking	46
6. Identification of, and assistance to, child victims of trafficking	48
7. Recovery and reflection period and residence permits	50
Appendix 1 - List of GRETA's conclusions and proposals for action	52
Appendix 2 - List of public bodies, intergovernmental organisations and civil society actors with which GRETA held consultations.....	58
Government's comments	60

Preamble

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

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

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

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

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

List of acronyms

AVIM	Aliens Police, Identification and Trafficking Department
CC	Criminal Code
CKM	(NGO) Centre against Child Trafficking and Human Trafficking
CCV	Centre for Crime Prevention and Safety
COA	Central Agency for the Reception of Asylum Seekers
CoMensha	(NGO) National Co-ordination Centre against Human Trafficking
COSM	Category-oriented Shelter for Victims of Human Trafficking
CPC	Criminal Procedure Code
DG OEK	Directorate-General Programme Ukrainian Displaced Persons
DT&V	Repatriation and Departure Service
EMM	Expertise Centre on Human Trafficking and People Smuggling
EMPACT	European Multidisciplinary Platform against Criminal Threats
FIU	Financial Intelligence Unit
FNV	Netherlands Trade Union Federation
FTE	Full Time Equivalent
GRECO	Group of States against Corruption
HR	Supreme Court of the Netherlands (" <i>Hoge Raad</i> ")
ILO	International Labour Organisation
IND	Immigration and Naturalisation Service
IOM	International Organization for Migration
JenV	Ministry of Justice and Security
JIT	Joint Investigative Team
KMar	Royal Netherlands Marechaussee
LIEC	National Information and Expertise Centre
MFL	Human Trafficking Field Lab
NLA	Netherlands Labour Authority (Labour Inspectorate)

OHCHR	(UN) Office of the High Commissioner for Human Rights
OM	Netherlands Public Prosecution Service
RBC	Responsible Business Conduct
RIEC	Regional Information and Expertise Centre
RVR	Legal Aid Board
SOM	Strategic Consultation on Human Trafficking (" <i>Strategisch Overleg Mensenhandel</i> ")
SSR	Training and Study Centre for the Judiciary
SZW	Ministry of Social Affairs and Employment
VNG	Association of Netherlands Municipalities
VWS	Ministry of Health, Welfare and Sport
UNHCR	United Nations High Commissioner for Refugees
UNODC	UN Office on Drugs and Crime
WODC	Research and Documentation Centre of the Ministry of Justice and Security

Executive summary

Since the second evaluation round of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings, the Netherlands has continued to develop the legislative and policy framework relevant to action against trafficking in human beings (THB). In January 2022, Section 273g was added to the Criminal Code, criminalising the use of sexual services from a person with the knowledge or reasonable suspicion that he/she is a victim of THB. Further, the Public Prosecution Service updated three policy documents guidelines relating to combatting THB. Following the implementation of the integrated programme "Together against Human Trafficking", adopted in 2018, the preparation of a new programme started in 2023, in consultation with civil society organisations and survivors of THB. Moreover, the majority of Dutch municipalities have adopted policies to combat THB.

The Netherlands continues to be primarily a country of destination of victims of human trafficking, but also to an increasing extent a country of origin. The total number of presumed victims of THB in the period 2018-2022 was 4,732, of whom some 60% were women. Approximately half of the presumed victims were trafficked for the purpose of sexual exploitation, 25% for labour exploitation, and 10% for forced criminality. About 20% of the presumed victims were Dutch citizens. The top five countries of origin of the foreign victims of trafficking were Nigeria, Poland, Romania, Bulgaria and Hungary.

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

GRETA welcomes the availability of information materials in different languages for victims of trafficking and considers that the Dutch authorities should continue making efforts to ensure that all presumed victims of trafficking are given information in a proactive manner, as soon as they come into contact with a competent authority.

In criminal proceedings, all victims of THB are entitled to free legal aid, irrespective of their nationality, immigration status or level of income. However, no legal assistance is provided to victims of THB during the initial interview with law enforcement agencies, even though the outcome of this interview may have major legal consequences. Further, access to free legal aid is not guaranteed to recover back wages or file a compensation claim in a civil court. GRETA welcomes the availability of free legal assistance and legal aid for victims of trafficking in the criminal proceedings and considers that the authorities should take additional measures to ensure that victims of trafficking have effective access to free legal assistance and legal aid in related fields, such as civil, labour and immigration law.

Compensation is usually dealt with as part of criminal proceedings. A State body, the Central Judicial Collection Agency, pays the compensation to the victim if the perpetrator has not done so within eight months of a final conviction and then try to recover the money from the perpetrator. There are numerous examples of courts awarding to victims substantial material damages for unpaid earnings from prostitution. GRETA considers that the authorities should ensure that victims of trafficking for the purpose of labour exploitation can obtain compensation from the perpetrator as part of criminal proceedings, and enable all victims of trafficking to effectively exercise their right to compensation in civil and labour law proceedings.

GRETA is concerned by the decreasing number of investigations, prosecutions and convictions for THB, in particular for labour exploitation, and the length of criminal proceedings in cases of THB. GRETA urges the Dutch authorities to strengthen their efforts to investigate and prosecute cases of human trafficking for the purpose of labour exploitation. Furthermore, GRETA considers that the authorities should take additional measures to ensure that trafficking offences are classified as such every time the circumstances of a case allow this. It is also necessary to strengthen the legal framework enabling the use of technological developments to gather material, documental, financial and digital evidence in THB cases.

GRETA notes that the absence of a specific legal provision on the non-punishment of victims of THB creates legal uncertainty and results in many victims of THB for the purpose of forced criminality being afraid to co-operate with the police due to fear of being prosecuted. GRETA considers that the Dutch authorities should take additional steps to ensure consistent application of the principle of non-punishment of victims of THB for their involvement in unlawful activities, to the extent that they were compelled to do so.

There are currently 380 to 400 police officers working on THB cases. In 2020 the government allocated an extra 10 million Euro to the police budget for action against THB. There are approximately 20 specialised prosecutors working on THB cases, and in some district courts as well as appeal courts, THB cases are allocated to chambers which have judges with experience in THB cases. GRETA welcomes the existence of specialised entities and professionals to deal with THB cases and the training provided to them.

The report also examines progress made on the implementation of previous GRETA recommendations on selected topics. Since 2018, the Dutch Labour Inspectorate (NLA), which is competent to detect and investigate human trafficking for the purpose of labour exploitation, has received an additional 50 million Euro annually. However, despite the increase in the number of labour inspectors specialising on THB, the NLA has detected fewer victims of human trafficking and investigated less cases of labour exploitation. Further, there is no system for licencing recruitment and temporary work agencies, through which at least 50% of migrant workers in the Netherlands are employed. GRETA calls on the authorities to ensure that cases of THB for labour exploitation are not treated as "serious disadvantage" cases, and to regulate recruitment and temporary work agencies.

The identification of victims of THB remains the exclusive responsibility of law enforcement agencies. A pilot project to develop a model of multidisciplinary identification of victims of THB, which included representatives from anti-trafficking NGOs, was not extended. GRETA urges the authorities to ensure that, in practice, the identification of victims of THB, is not linked to the prospects of the investigation and prosecution, and to strengthen multi-agency involvement in the identification of victims of trafficking by formally recognising the role of specialised NGOs in the decision-making process leading to identification. Further, GRETA calls on the authorities to pay increased attention to detecting victims of trafficking amongst asylum seekers, including by providing systematic training and instructions to staff of reception centres and immigration detention centres.

GRETA welcomes the existence of an extensive network of organisations and specialised shelters for victims of THB, including for victims with special needs. However, GRETA considers that the authorities should ensure that access to assistance for victims of THB is not made conditional on their willingness to co-operate in the investigation, and that there is a sufficient number of accommodation places for male victims and victims with multiple problems.

Moreover, GRETA urges the Dutch authorities to develop a National Referral Mechanism for child victims of THB which takes into account the special circumstances and needs of child victims, and to continue to take action to reduce the risk of unaccompanied migrant children going missing from institutional care.

Finally, GRETA calls upon the Dutch authorities to ensure that all foreigners for whom there are reasonable grounds to believe that they are victims of trafficking, including those falling under the Dublin Regulations, are offered a recovery and reflection period and are able to fully benefit from all the measures of protection and assistance envisaged in Article 12, paragraphs 1 and 2, of the Convention during this period.

I. Introduction

1. The Council of Europe Convention on Action against Trafficking in Human Beings ("the Convention") entered into force for the Netherlands on 1 August 2010. GRETA's first evaluation report on the Netherlands was published on 18 June 2014,¹ and the second evaluation report on 19 October 2018.²

2. On the basis of GRETA's second report, on 9 November 2018, the Committee of the Parties to the Convention adopted a recommendation to the Dutch authorities,³ requesting them to inform the Committee within a one-year period of measures taken to comply with the recommendation. The report submitted by the Dutch authorities was considered at the 26th meeting of the Committee of the Parties (12 June 2020), and was made public.⁴

3. On 29 September 2021, GRETA launched the third round of evaluation of the Convention in respect of the Netherlands by sending the questionnaire for this round to the Dutch authorities. The deadline for submitting the reply to the questionnaire was 18 March 2022 and the authorities' reply was received on 25 April 2022.

4. In preparation of the present report, GRETA used the reply to the third-round questionnaire by the Dutch authorities,⁵ the above-mentioned report and additional information submitted by them in reply to the Committee of the Parties' recommendation. An evaluation visit to the Netherlands took place from 19 to 25 October 2022 in order to hold meetings with relevant governmental and non-governmental actors, collect additional information and examine the practical implementation of adopted measures. The visit was carried out by a delegation composed of:

- Ms Antoaneta Vassileva, First Vice-President of GRETA;
- Mr Peter Van Hauwermeiren, member of GRETA;
- Ms Petya Nestorova, Executive Secretary of the Convention;
- Mr Roemer Lemaître, Administrator in the Secretariat of the Convention.

5. During the visit, the GRETA delegation held consultations with Mr Eric van der Burg, State Secretary of the Ministry of the Justice and Security, as well as officials from the Ministry of the Justice and Security, the Ministry of Social Affairs and Employment (Labour Inspectorate), the Ministry of Foreign Affairs, the Ministry of Health, Welfare and Sports, and the Ministry of Interior Affairs and Kingdom Relations. Furthermore, GRETA's delegation held meetings with representatives of the Police, the Royal Netherlands Marechaussee, the Financial Intelligence Unit, the National Information and Expertise Centre, the Regional Information and Expertise Centre for Rotterdam Region, the Violent Offences Compensation Fund, the Legal Aid Board, as well as prosecutors and judges. The GRETA delegation also met with members of Parliament (*Tweede Kamer*). A separate meeting was held with the Office of the National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children. In addition, the delegation met representatives of the municipal authorities of Amsterdam, Leeuwarden, Rotterdam and Tilburg, and the Association of Netherlands Municipalities.

6. Separate meetings were held with non-governmental organisations (NGOs), trade unions and lawyers representing victims of THB. The GRETA delegation also met representatives of the International Organization for Migration (IOM) and the United Nations High Commissioner for Refugees (UNHCR).

¹ <http://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680632199>

² <https://rm.coe.int/greta-2018-19-fgr-nld-en/16808e70ca>

³ <https://rm.coe.int/cp-2018-26-ndl-en/16808edce6>

⁴ <https://rm.coe.int/cp-2019-04-netherlands/16809eb4d9>

⁵ <https://rm.coe.int/reply-from-the-netherlands-to-the-questionnaire-for-the-evaluation-of-/1680a6615d>

-
7. In the course of the visit, GRETA's delegation visited five shelters accommodating victims of human trafficking, in Amsterdam ("HVO Querido"), The Hague ("SHOP"), Leeuwarden ("Fier"), Goirle ("Sterk Huis") and Assen ("Yadeborg"). This provided an opportunity to have discussions with victims of trafficking.
8. The list of the national authorities, NGOs and other organisations with which the delegation held consultations is set out in Appendix 2 to this report. GRETA is grateful for the information provided by them.
9. GRETA wishes to place on record the excellent co-operation provided by the Dutch authorities in the preparation and carrying out of the evaluation visit, and in particular by Ms Anouk Rooijers, senior policy advisor of the Ministry of Justice and Security, fulfilling the role of contact person for GRETA at the time of the evaluation. GRETA notes the general coherence of facts and standpoints received both from the authorities and civil society, reflecting the openness of interlocutors as well as the degree of accuracy of the information.
10. The draft version of the present report was approved by GRETA at its 47th meeting (27 to 31 March 2023) and was submitted to the Dutch authorities for comments. The authorities' comments were received on 13 June 2023 and were taken into account by GRETA when adopting the final report at its 48th meeting (26-30 June 2023). The report covers the situation up to 30 June 2023; developments since that date are not taken into account in the following analysis and conclusions. GRETA's conclusions and proposals for action are summarised in Appendix 1.

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

11. The Netherlands continues to be predominantly a country of destination of victims of trafficking in human beings (THB), but also to an increasing extent a country of origin. According to the NGO CoMensha, which is tasked by the authorities to register presumed victims of THB, there were 742 presumed victims of trafficking in 2018, 1,372 in 2019, 1,013 in 2020, 791 in 2021, and 814 in 2022.⁶ Approximately 60% of these victims were female and 10% were children. As regards the forms of exploitation, approximately half of the presumed victims (2,263) were trafficked for the purpose of sexual exploitation (of whom about 27%) were trafficked internally), 1,150 for labour exploitation, 643 for forced criminality, and 10 for organ removal. A number of the presumed victims were subjected to multiple forms of exploitation and there were 165 presumed victims of 'unknown' exploitation, which includes persons who were registered before exploitation had commenced. About 20% of the presumed victims were Dutch citizens. The top five countries of origin of the foreign victims of trafficking were Nigeria, Poland, Romania, Bulgaria and Hungary.

12. The decrease in the number of registered victims between 2019 and 2021 could be linked to the COVID-19 pandemic, due to reduced travel movements and limitations in detection. Meanwhile, the often-poor living and working conditions of migrant workers, including undocumented workers, became especially visible during the COVID-19 pandemic and led to an increase in the proportion of presumed victims of THB for labour exploitation. Most of the victims reported themselves to aid agencies when they lost not only their jobs but also their housing and residence permits due to the COVID-19 measures. Another change linked to the pandemic was the decrease in the number of victims of cross-border sexual exploitation and of trafficking for forced criminality. The number of reports of child victims also decreased significantly in 2020. The Dutch authorities have noted the particular vulnerability to THB of children and young adults with multiple problems, such as intellectual or mental disabilities and drug addictions, who have been living in youth care institutions.⁷ Many of them are recruited online and exploited by "pimp boyfriends" (see paragraphs 19 and 200).

13. According to the authorities and specialised NGOs, the scale of human trafficking in the Netherlands is higher than the above-mentioned figures of presumed victims suggest. The Research and Documentation Centre of the Ministry of Justice and Security (WODC) estimated that the annual number of victims of human trafficking is around 5,000, roughly equally divided between female and male victims, and between victims of sexual exploitation and other forms of exploitation.⁸ According to this estimate, cases of child trafficking and forced labour, most notably of Dutch nationals, are less likely to be detected. A report by the NGO CKM on forced criminality in 13 municipalities concluded that in 2020-2021 there might have been up to 2,500 potential victims of THB for forced criminality, compared to only 68 registered presumed victims.⁹

⁶ According to the authorities all persons for which there exists the "slightest indication" that they might be victims of THB are registered as presumed victims (see paragraph 179). By way of comparison, during the period covered by GRETA's second report, the number of presumed victims of trafficking was 1,437 in 2013, 1,561 in 2014, 1,321 in 2015, 1,049 in 2016 and 1,076 in 2017. The figures mentioned in GRETA's second report were corrected upward by the National Rapporteur on THB based on the "slightest indication" criterium, see [Slachtoffers van mensenhandel in beeld bij CoMensha 2017-2021](#).

⁷ A February 2023 [report](#) by CoMensha, Koraal and the MetaStory Institute advised paying more attention to both victims and perpetrators of THB with a mild intellectual disability.

⁸ [A Multiple Systems Estimation of presumed victims of human trafficking in the Netherlands during 2016-2019](#)

⁹ [Jonge Nederlandse slachtoffers criminele uitbuiting witte vlek in aanpak ondermijning](#) (in Dutch).

14. The number of asylum seekers registered in the Netherlands increased in 2022 when 47,991 persons applied for asylum, compared to 36,620 in 2021.¹⁰ There are no statistics on the number of victims of THB identified amongst asylum seekers. Between the outbreak of the war in Ukraine on 24 February 2022 and October 2022, the Netherlands has registered more than 80,000 arrivals from Ukraine (overwhelmingly women and children). The authorities launched a website for refugees from Ukraine, which includes information on THB.¹¹ The Directorate-General Programme Ukrainian Displaced Persons (DG OEK) was set up within the Ministry of Justice and Security (JenV) in April 2022 and placed in charge of policy co-ordination, support and planning for the reception of displaced persons from Ukraine. During the evaluation visit in October 2022, GRETA was informed that 35,000 Ukrainians had so far found work in the Netherlands. In 2022 Comensha registered 51 presumed Ukrainian victims of THB (two for sexual exploitation and 49 for labour exploitation). The authorities indicated that three investigations had been launched into possible cases of THB (two cases by police and one case by the Netherlands Labour Authority (NLA)), but no evidence of human trafficking was found during these investigations.

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

15. Since the second evaluation of the Netherlands by GRETA in 2018, the legislative framework relevant to action against THB has undergone several changes. In August 2019, Section B8/3.1 of the Aliens Circular was amended, allowing the authorities to transfer third-country nationals seeking asylum in the Netherlands, who arrive from another EU country and claim to be victims of THB, to the EU country of first entry, and not provide them with a B8/3 permit, unless the presence of the foreign national is deemed necessary in the interests of investigating and prosecuting human trafficking. As a result of this amendment, these foreign nationals are *de facto* being denied a reflection and recovery period (see paragraph 208).

16. On 1 January 2022, Section 273g was added to the Criminal Code (CC), establishing criminal liability for a person who uses sexual services with the knowledge or reasonable suspicion that a victim of THB is involved (see paragraph 172). The Dutch authorities are currently preparing an amendment to Section 273f of the CC with a view to improving the prosecution of THB cases and providing greater clarity on which acts constitute criminal offences (see paragraph 162).

17. Furthermore, the Public Prosecution Service (OM) has adopted and/or updated three policy documents: the Guideline for Criminal Procedure in Human Trafficking, stipulating sentencing guidelines (version of 1 November 2021; see paragraph 88), the Directive on THB, spelling out the OM's tasks and priorities in the fight against THB (version of 1 April 2022; see paragraphs 89 and 98), and the Directive on dismissal and grounds of dismissal, incorporating the non-punishment principle (version of 1 July 2022; see paragraph 98).

18. On the institutional level, the Task Force Human Trafficking, chaired by the OM and including representatives from relevant state and municipal bodies, as well as NGOs, was established for a fifth three-years term in July 2020. The Task Force is devoted to promoting and further developing the integrated approach to human trafficking outlined in the national action plan (see paragraph 25).

19. JenV and the Ministry of Health, Welfare and Sport (VWS) created an Expert Group to follow-up on earlier actions targeting "pimp boyfriends" ("*tienerpooiers*").¹² The Expert Group was disbanded at the start of 2022 and it was decided to integrate the lessons learned from its work into regional co-operation programmes (see paragraph 22).

¹⁰ <https://ind.nl/en/news/influx-of-asylum-seekers-in-december-2022>

¹¹ [RefugeeHelp.nl](https://refugeehelp.nl)

¹² See GRETA's second report on the Netherlands, paragraph 28.

20. During the evaluation visit, GRETA was informed of the Human Trafficking Field Lab (MFL) project, which is a problem-oriented programme bringing together professionals from a range of state and non-state organisations to develop innovative and effective tools and interventions for combating THB. The first edition of the MFL (2019-2021) focused on THB for sexual exploitation and the second edition (2021-2023) on THB for labour exploitation and forced criminality. Each MFL consists of several teams which complete a five-day workshop and develop innovative approaches presented for discussion. For example, one team investigated the facilitating of child sexual abuse materials through online platforms. Using fake ads, it tested the policy of different websites when there are clear signs of child sexual abuse materials in an ad. The team met with the online platforms to evaluate the Code of Conduct they had established in 2018 (see paragraph 150) in order to ensure better compliance. **GRETA welcomes the Human Trafficking Field Lab project and invites the Dutch authorities to continue it beyond 2023.**

21. Municipalities play an important role in action against THB in the Netherlands. As noted in GRETA's second report, since 2015, the task of providing support to victims of THB has been delegated to the municipalities, through changes to the Social Support Act and the Child and Youth Act.¹³ In 2018 an Inter-governmental Programme was launched to improve co-operation between the central, provincial and municipal authorities.¹⁴ It stipulates, *inter alia*, that by the end of 2022, every municipality in the Netherlands must have a policy to combat THB.¹⁵ However, in their comments on the draft report, the Dutch authorities acknowledged that a survey of 181 municipalities had revealed that only 66% of them had developed policies focusing on THB. The Association of Netherlands Municipalities (VNG) has commissioned the Centre for Crime Prevention and Security (CCV)¹⁶ to prepare a digital toolkit to assist municipalities in the development of their approach to THB. The toolkit, called "Kompas", functions as a handbook with policy tools, and has been particularly useful for municipalities which did not have THB policies before. Four times a year, there are meetings of the THB co-ordinators of different regions.¹⁷ Furthermore, JenV, together with the police, the Expertise Centre on Human Trafficking and People Smuggling (EMM), CCV, VNG and CoMensha, have started discussions on whether "the Domain- and Information-driven Working Method" (DIGW), which was developed by the police, can be applied to municipalities to help them detect signs of human trafficking. Municipalities are also supported by the Regional Information and Expertise Centres (RIEC) and the National Information and Expertise Centre (LIEC).¹⁸ **GRETA welcomes the involvement of municipalities in action against THB and invites all municipalities in the Netherlands to adopt policies to combat THB.**

22. During the evaluation visit, GRETA met officials from the municipalities of Amsterdam, Rotterdam, Tilburg and Leeuwarden. At the municipality of Amsterdam, two staff worked solely on THB-related issues. Combating THB is a priority issue and the municipality provides some 900,000 euros per year for the purpose, including for prevention and training of municipal officials (building inspectors, passport officials, staff registering Ukrainian refugees, municipal inspectors of sex work permits, etc.). There is also a regional round-table on THB. Further, Amsterdam has been active in building a network of European municipalities engaged in combating THB. In the region Rotterdam-Rijnmond all 32 municipalities work together in a regional approach to human trafficking. In Tilburg, GRETA was informed of an Action Programme "No Place for THB" which was accepted by all 39 mayors of the region in 2021, and there are 15 persons involved in its implementation. Regional co-operation started in 2019, with the appointment of four care co-ordinators for THB victims, and the organisation of a week of awareness on THB. In Leeuwarden, GRETA was informed of plans to adopt a unified THB policy for all municipalities in the province of Friesland together with the NGO "Fier." Despite these welcome initiatives, the existence of

¹³ See GRETA's second report on the Netherlands, paragraph 123.

¹⁴ <https://open.overheid.nl/repository/ronl-7f45e334-51c7-48f9-be35-7cb4aba88643/1/pdf/programmastart-interbestuurlijk-programma-ibp.pdf>

¹⁵ There are 342 municipalities in the European part of the Kingdom of the Netherlands. Since 2010 three smaller Dutch islands in the Caribbean (Bonaire, Sint Eustatius and Saba) are special municipalities of the Netherlands governed by Dutch law.

¹⁶ CCV is an independent foundation, partially financed by JenV, that helps to identify and solve safety problems. CCV's aim is to make safety policy more effective and easier to implement. To that end, it offers information, know-how, instruments and tailored advice directed at safety at home, safe working and safe living.

¹⁷ <https://kompasaanpakmensenhandel.vng.nl/wat-is-het-kompas/>

¹⁸ See GRETA's second report on the Netherlands, paragraph 221.

hundreds of local policies on combating THB results in a scattered approach. Not all municipalities are ready to acknowledge that they have THB victims and to pay for their assistance. GRETA's interlocutors stressed the importance of a co-ordinated approach to combating THB on the national level, in particular when it comes to implementing the "Roemer Commission" recommendations regarding the treatment of migrant workers (see paragraph 157).

23. During the reporting period the network of regional care co-ordinators, which was started in 2015, has continued to grow and now covers almost all of the country.¹⁹ As already described in GRETA's second evaluation report, regional care co-ordinators ensure that victims of THB are assisted with the various processes they have to go through in order to reach the right care, shelter and legal assistance.²⁰ Care co-ordinators also act as the first point of contact for the municipalities. In areas without a regional care co-ordinator, CoMensha functions as the contact point. GRETA was informed that there were some 30 care co-ordinators across the country who meet four times a year. GRETA welcomes the active involvement of Dutch municipalities in anti-trafficking action and the expansion of the network of regional care co-ordinators.

24. As noted in GRETA's previous reports, the Dutch National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children is an independent institution instituted by law with a mandate to report to the Government on progress in the fight against human trafficking.²¹ The National Rapporteur publishes reports with recommendations, an annual overview of the data on presumed victims of THB as reported by CoMensha,²² a detailed Victim Monitor²³ and a Perpetrator Monitor.²⁴ **GRETA welcomes the contribution of the National Rapporteur to combating THB in the Netherlands, through research and targeted recommendations.**

25. In November 2018 the Dutch authorities adopted the integrated programme "Together against Human Trafficking,"²⁵ which is effectively a national action plan against THB. It was drafted by JenV in co-operation with a large number of state and non-state organisations. The aims of the programme are preventing people from becoming victims, quickly identifying and assisting victims, and combating perpetrators in a variety of ways, both criminally and administratively. The programme is built up along five lines of action:

- 1) further development of the basic approach to combating THB through increased detection of victims and perpetrators and improved assistance services for victims;
- 2) further development of the approach to combat labour exploitation;
- 3) preventing people from becoming victims, including in countries of origin and transit; considering how to prevent crimes from being perpetrated through making agreements with the business community;
- 4) strengthening the municipal approach to combating THB;
- 5) sharing knowledge and information between professionals in the Netherlands and abroad.

¹⁹ <https://www.wegwijzermensenhandel.nl/zorgcoördinatoren>

²⁰ See GRETA's second report on the Netherlands, paragraph 124.

²¹ <https://www.nationaalrapporteur.nl/>

²² <https://www.nationaalrapporteur.nl/binaries/nationaalrapporteur/documenten/publicaties/2022/10/18/slachtoffers-van-mensenhandel-in-beeld-bij-comensha-2017-2021/Slachtoffers+van+mensenhandel+in+beeld+bij+CoMensha+2017-2021.pdf>

²³

<https://www.nationaalrapporteur.nl/binaries/nationaalrapporteur/documenten/rapporten/2021/12/07/slachtoffermonitor-mensenhandel-2016---2020/Slachtoffermonitor+mensenhandel+2016-2020.pdf>

²⁴ <https://www.nationaalrapporteur.nl/binaries/nationaalrapporteur/documenten/rapporten/2022/12/06/dadermonitor-mensenhandel-2017-2021/Nationaal+Rapporteur+-+Dadermonitor+mensenhandel+2017-2021.pdf>

²⁵ <https://open.overheid.nl/repository/ronl-2ec83602-eda-4072-b912-bd018988490f/1/pdf/tk-bijlage-3-samen-tegen-mensenhandel.pdf> (in Dutch)

26. In November 2021, JenV published a detailed assessment of the programme results, indicating the status of all of the planned activities (completed; ongoing; in progress and as scheduled; in progress, but delayed; awaiting commencement; under formal consultation). According to NGOs met by GRETA, the integrated programme lacks targets enabling the evaluation of its implementation. The Dutch authorities acknowledged that the way in which the programme had been designed made it impossible to conduct an independent evaluation. At the time the programme was set up in 2018, there was no specific budget available for its implementation and the actions that were defined in it were financed by different sources and were evaluated in accordance with the relevant policy evaluations. The authorities noted that due to this setup, it is not feasible to evaluate the programme in its entirety. However, overviews of the progress of the different actions have been shared with Parliament on a yearly basis, and in the upcoming new national action programme attention will be given to the monitoring and evaluation of the actions. **GRETA considers that the Dutch authorities should commission an independent evaluation of future national anti-trafficking programmes as a tool for assessing the impact of the activities and for planning future policies and measures to combat THB.**

27. In December 2021 the new Dutch coalition government agreed to continue with the 2018 integrated programme,²⁶ and in 2022 it announced plans to draft a new programme, in consultation with all relevant stakeholders from state institutions and civil society, including survivors of human trafficking. Four round table sessions were held. At the first round table stakeholders shared their views on current issues and problems.²⁷ The second round table discussed the causes of the defined problems. During the third round table possible interventions and operational goals were conveyed. In the final round table participants considered possible actions and identified the stakeholders that have to be involved. Currently, the Dutch authorities are transferring the input from the round tables into a national action plan with goals and actions.

28. Since 2018 the Dutch government has adopted several budgetary measures increasing funding for action against THB. From 2018 onwards police and OM have received 2 million Euro annually for research and development in the field of THB. These funds have been spent, among others, on the previously mentioned Field Labs (MFL) and to expand the EMM (see paragraph 117). Since 2018 the NLA has received an extra 50 million Euro annually to fulfil its tasks, including for action against THB (see paragraph 146). In 2020 the Dutch government added 10 million Euro to the police budget to hire more officers to work on the fight against THB. In 2021 the current Dutch government announced plans to provide 2 million Euro per year starting in 2023 to fund activities under the new Programme against Human Trafficking.

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

1. Introduction

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

²⁶ VVD, D66, CDA & Christenunie, [Omzien naar elkaar, vooruitkijken naar de toekomst](#) (in Dutch), December 2021, page 22.
²⁷ <https://open.overheid.nl/documenten/ronl-358034e20d5dfbecab988660c9b4dd8d0a2df2b/pdf> (in Dutch)

30. The right to effective remedies is a reflection of the human rights-based approach underpinning the Convention. Regardless of whether a State is implicated in the trafficking or directly responsible for the harm, the positive obligations arising from international human rights law require States to facilitate and guarantee effective access to remedies if they have failed to take reasonable steps to prevent human trafficking, protect potential or actual victims of THB, and effectively investigate trafficking offences.²⁸

31. According to the Basic Principles on the Right to an Effective Remedy for Victims of Trafficking in Persons,²⁹ the right to an effective remedy is considered to include restitution,³⁰ compensation,³¹ rehabilitation,³² satisfaction³³ and guarantees of non-repetition.³⁴ All victims of trafficking require access to appropriate and effective remedies, starting with access to justice. The provision of effective remedies serves multiple purposes. The remedy of compensation, for instance, for any injury, loss or harm sustained, can provide critical support in victims' recovery and empowerment, help their social inclusion and prevent re-victimisation. The remedy of rehabilitation can similarly help in the victims' recovery, as well as social inclusion. Of relevance in this respect is also the 1985 United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power³⁵ and the Council of Europe Committee of Ministers Recommendation CM/Rec(2023)2 on rights, services and support for victims of crime,³⁶ which outline the main steps to be taken to improve access to justice, and fair treatment, restitution, compensation and social assistance for victims of crime.

32. The Convention provides specifically for the substantive right of victims of trafficking to compensation and legal redress, as well as for a number of procedural rights necessary to ensure access to these entitlements. These include the rights to be identified as a victim of trafficking, to be granted a recovery and reflection period, as well as a residence permit (to enable a victim to remain in the country and seek access to remedies), and to receive counselling, information, legal assistance and free legal aid. Another important procedural right is provided by the non-punishment provision of the Convention (Article 26), according to which victims of human trafficking must not be subjected to penalties for their involvement in unlawful activities that they have been compelled to commit. Further, the Convention

²⁸ *Rantsev v. Cyprus and Russia*, application no. 25965/04, judgment of 7 January 2010; *L.E. v. Greece*, application No. 71545/12, judgment of 21 January 2016; *Chowdury and Others v. Greece*, application No. 21884/15, judgment 30 March 2017; *S.M. v. Croatia*, application No. 60561/14, Grand Chamber judgment 25 June 2020.

²⁹ UN General Assembly, Basic principles on the right to an effective remedy for victims of trafficking in persons, Annex to the Report by the Special Rapporteur on trafficking in persons, especially women and children, 28 July 2014, A/69/33797.

³⁰ Restitution includes restoration of liberty, including release of the victim from detention; enjoyment of human rights and family life, including reunification and contact with family members; safe and voluntary repatriation; temporary or permanent residence status, refugee status, complementary/subsidiary protection or third-country resettlement; recognition of the victim's legal identity and citizenship; restoration of the victim's employment; assistance and support to facilitate social integration or reintegration; return of property, such as identity and travel documents and other personal belongings.

³¹ Compensation may cover damages for physical or mental harm; damages for lost opportunities, including employment, education and social benefits; reimbursement of costs of necessary transportation, child care or temporary housing; material damages and loss of earnings; moral or non-material damages; reimbursement of legal fees and other costs relating to the participation of the victim in the criminal justice process; reimbursement of costs incurred for legal, medical or other assistance.

³² Rehabilitation includes medical and psychological care, legal and social services, shelter, counselling and linguistic support, independently of the capacity or willingness of the victims to co-operate in legal proceedings.

³³ Satisfaction includes effective measures aimed at the cessation of continuing violations; verification of the facts and full and public disclosure of the truth to the extent that such disclosure does not cause further harm or threaten the safety, privacy and other interests of the victims of their families; an official declaration or a judicial decision restoring the dignity, reputation and rights of the victim; public apologies; judicial and administrative sanction against the perpetrators.

³⁴ Guarantees of non-repetition include ensuring the effective investigation, prosecution and sanctioning of traffickers; all measures necessary to protect victims from re-trafficking; providing or strengthening training of relevant officials; strengthening the independence of the judiciary; modifying practices that cause, sustain or promote tolerance to trafficking, including gender-based discrimination and situations of conflict and post-conflict; effectively addressing the root causes of trafficking; promoting codes of conduct and ethical norms for public and private actors; protecting legal, medical and other professionals and human rights defenders who assist victims.

³⁵ United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, Adopted by General Assembly resolution 40/34 of 29 November 1985, available at: https://www.unicef-irc.org/portfolios/documents/472_un-declaration-crime.htm

³⁶ Council of Europe Committee of Ministers Recommendation CM/Rec(2023)2 on rights, services and support for victims of crime, available at: https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=0900001680aa8263

requires State Parties to enable the seizure and confiscation of the assets of traffickers, which could be used to fund State compensation schemes for victims.

33. Children need special support to access remedies, the best interests of the child being the primary consideration in all actions concerning trafficked children.³⁷ The appointment of legal guardians to represent unaccompanied or separated children plays a vital role in enabling child victims of trafficking to access justice and remedies. Further, facilitating family reunification can be an important element of restitution.³⁸

34. Civil society, including NGOs, trade unions, diaspora organisations and employer organisations, plays a vital role in enabling victims of THB to claim compensation and other remedies.³⁹ In this context, reference should be made to the international projects COMP.ACT - European Action on Compensation for Trafficked Persons and Justice at Last - European Action for Compensation of Victims of Crime,⁴⁰ which aim to enhance access to compensation for trafficked persons.

35. The private sector should also play a role in enabling access to, as well as providing, remedies to trafficked persons, in accordance with the UN 'Protect, Respect and Remedy' Framework and the United Nations Guiding Principles on Business and Human Rights.⁴¹ The role of businesses includes steps to ensure that their supply chains are free of trafficked labour, as well as the adoption and implementation of measures to facilitate victims' access to remedies for any harm that occurs. Further, businesses have the potential to help trafficked persons regain economic autonomy.⁴² States should therefore ensure that business enterprises implicated in human trafficking are held responsible and take steps to reduce barriers that could lead to a denial of access to remedies.

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

2. Right to information (Articles 12 and 15)

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

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

³⁷ Article 3(1) of the UN Convention on the Rights of the Child.

³⁸ UNODC, ICAT Issue Paper, Providing Effective Remedies for Victims of Trafficking in Persons, 2016, pages 7 & 8, available at: http://icat.network/sites/default/files/publications/documents/Ebook%20ENG_0.pdf

³⁹ OSCE Compensation for Trafficked and Exploited Persons in the OSCE Region, 2008, pages 48 to 53.

⁴⁰ <http://lastradainternational.org/about-lsi/projects/justice-at-last>

⁴¹ United Nations Guiding Principles on Business and Human Rights, implementing the UN 'Protect, Respect and Remedy' Framework, Doc. A/HRC/17/31 (2011).

⁴² UNODC, ICAT Issue Paper, Providing Effective Remedies for Victims of Trafficking in Persons, 2016, pages 8 & 9.

being fully and effectively enforced). The information and counselling should enable victims to evaluate their situation and make an informed choice from the various possibilities open to them.⁴³

39. Many victims do not speak, or barely speak, the language of the country they have been brought to for exploitation. Ignorance of the language adds to their isolation and is one of the factors preventing them from claiming their rights. The provision of translation and interpretation, where needed, is an essential measure for guaranteeing access to rights, which is a prerequisite for access to justice. GRETA has stressed the need for ensuring the availability, quality and independence of interpreters.⁴⁴

40. In the Netherlands, information for victims of THB is available on a government website, available only in Dutch.⁴⁵ In addition, CoMensha operates a website with a helpdesk, available from Monday to Friday from 9 a.m. to 5 p.m., in Dutch and English, for anyone who has questions about human trafficking.⁴⁶ In late 2020 the NGOs Terre des Hommes and CoMensha launched a dedicated website in Dutch and a special hotline for child victims of THB, but the project was terminated on 1 January 2022.⁴⁷ In co-operation with JenV and the police, CoMensha developed a brochure, called "From here on", available in five languages (Dutch, English, Hungarian, Bulgarian and Polish), informing victims about their rights and how to get assistance.⁴⁸ Furthermore, basic information for victims of all crimes, including THB, is available at the website of the Victim Support Fund in six languages (Arabic, Dutch, English, French, German and Spanish).⁴⁹

41. According to the Dutch authorities, victims of THB are informed of their rights in a language they can understand at their first contact with the authorities. The police has developed an animation that explains, in a simple language, what THB is, how a person may become a victim, what the rights of victims are, and where to seek assistance, with subtitles in 13 languages.⁵⁰ According to Article 51aa of the Criminal Procedure Code (CPC), the police or the prosecutor must ensure referral of victims to a victim assistance organisation, for example Victim Support of the Netherlands,⁵¹ where they can receive information, advice and support. Irregular migrants and asylum seekers are informed by the Aliens Police, Identification and Trafficking Department (AVIM), the Immigration and Naturalisation Service (IND) and/or the Repatriation and Departure Service (DTV) about their rights, including access to a recovery and reflection period and a residence permit.

42. Victims who do not speak Dutch can get translation and interpretation services free of charge (Articles 51c(5)-(6) and 53ca of the CPC). Victims receive information about their right to interpretation and translation at the moment of first contact with the authorities. CoMensha receives funds from the Dutch authorities for interpreters and translators.⁵² Shelters can make use of interpreters at any time and the costs are reimbursed by VWS. An appointed lawyer can also make use of an interpreter. These costs are paid by the Legal Aid Board. Labour inspectors work with certified interpreters who are affiliated with the organisation "Global Talk". Interpretation is provided by telephone or by an interpreter who is physically present. The OM has a Victims' Desk which assigns certified interpreters to victims during court proceedings.

⁴³ See Explanatory Report on the Convention, paragraphs 160-162.

⁴⁴ See 8th General Report on GRETA's activities, paragraphs 168-169.

⁴⁵ [wegwijzermensenhandel.nl](https://www.wegwijzermensenhandel.nl)

⁴⁶ [Onze helpdesk - CoMensha - Coördinatiecentrum tegen Mensenhandel](https://www.onzehelpdesk.nl)

⁴⁷ [HOME | Meldpunt Uitbuiting Minderjarigen \(melduitbuitingminderjarigen.nl\)](https://www.meldpuntuitbuitingminderjarigen.nl)

⁴⁸ <https://www.sociaalwerknederland.nl/?file=6170&m=1346400639&action=file.download>

⁴⁹ <https://slachtofferwijzer.nl/>

⁵⁰ <https://politienl.bbvms.com/p/default/p/2937.html?inheritDimensions=true>

⁵¹ slachtofferhulp.nl

⁵² <https://www.comensha.nl/onze-helpdesk/tolkenvergoeding/>

43. Anti-trafficking NGOs informed GRETA that there are not always enough interpreters in some of the victims' native languages (for example, Filipino). Moreover, even when foreign victims speak English, their dialects (e.g. Pidgin English spoken by Nigerian victims) are often not properly understood by officials. In the case of interpretation by phone, it is difficult to translate non-verbal communication. The Netherlands Trade Union Federation (FNV) noted a recent trend towards employing non-English speaking labour migrants from Central Asian countries in the transportation sector to prevent easy communication with labour inspectors and other officials.

44. **GRETA welcomes the availability of information materials in different languages for victims of trafficking and considers that the Dutch authorities should continue to make efforts to ensure that all presumed victims of trafficking are given information in a proactive manner, as soon as they come into contact with a competent authority. The information should take into account victim's age, maturity, intellectual and emotional capacity, literacy and any mental, physical, or other disability which may affect the ability to understand. The information should be provided irrespective of the victim's capacity or willingness to co-operate in criminal proceedings and include the right to a recovery and reflection period, the services and assistance measures available, state compensation procedure and other relevant civil and administrative remedies and procedures.**

45. **GRETA also considers that the Dutch authorities should take further measures to increase the number of qualified interpreters who are sensitised to the issue of human trafficking and the vulnerabilities of victims, and to ensure their timely availability.**

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

46. Article 15(2) of the Convention obliges Parties to provide in their internal law for the right of victims of trafficking to legal assistance and free legal aid. As court and administrative procedure is often very complex, legal assistance is necessary for victims to be able to claim their rights. It is for each Party to decide the requirements for obtaining such free legal aid. Parties must have regard not only to Article 15(2) of the Convention, but also to Article 6 of the ECHR. Even though Article 6(3)(c) of the ECHR provides for free assistance from an officially appointed lawyer only in criminal proceedings, European Court of Human Rights case-law⁵³ also recognises, in certain circumstances, the right to free legal assistance in a civil matter on the basis of Article 6(1) of the ECHR. Thus, even in the absence of legislation granting free legal assistance in a civil matter, it is for the courts to assess whether, in the interest of justice, an applicant who is without financial means should be granted legal assistance if unable to afford a lawyer.

47. GRETA's reports highlight the value of a lawyer being appointed as soon as there are reasonable grounds for believing that a person is a victim of trafficking, before the person makes an official statement and/or decides whether to co-operate with the authorities. Early access to legal assistance is also important to enable victims to take civil actions for compensation and redress.⁵⁴

48. In the Netherlands, victims of all crimes, including THB, are entitled to a legal representative (Article 51c(1)-(3) of the CPC). Pursuant to the Law on Legal Assistance, free legal aid is available through the Legal Aid Board (RVR), irrespective of the victims' nationality, immigration status or level of income. According to the RVR applications are processed quickly. Lawyers are issued a certificate entitling them to represent victims in different proceedings, including applications for residence permit and compensation claims. The fee paid by the RVR to lawyers representing victims was recently increased and corresponds to 15 hours of work at 119,4 euros per hour excl. VAT, but it can be raised under certain circumstances (e.g. complexity of the case, number of hearings, travel time). According to lawyers met by GRETA, in complex cases, the time spent by lawyers could reach 53 hours, and the lump sum paid is not commensurate with the work carried out, nor does it cover the time spent traveling to institutions to meet

⁵³ *Airey v. Ireland* judgment, 9 October 1979.

⁵⁴ See 8th General report on GRETA's activities, paragraph 167.

clients. The fees paid to lawyers to support victims of THB has reportedly resulted in fewer lawyers being available to represent such victims.

49. Additionally, victims of THB can also get free legal assistance from Victim Support the Netherlands or contact a government funded "Legal Advice Counter". Several anti-trafficking NGOs offer support and advise to victims of THB about the legal process and can also refer them to other relevant organisations or a specialised lawyer. The Netherlands Red Cross and some NGOs provide free legal support to foreign victims during the residence permit procedures, in addition to the legal assistance provided by the State appointed lawyer. The legal fees for the B9 residence permit procedure (see paragraph 211) are reportedly too high.

50. Lawyers specialised to represent victims of THB are registered with the RVR. These lawyers are specialised on victim and/or immigration law, and have received training on THB. CoMensha has published a detailed overview of specific training for lawyers and other practitioners on THB.⁵⁵ However, lawyers specialised to represent victims of THB are not available across the country.

51. Victims of THB who claim asylum are assigned a lawyer as part of the asylum procedure, but these lawyers have limited expertise on THB.

52. The RVR could not provide statistical data on the number of trafficking victims who benefited from state-provided legal assistance and legal aid because in its database victims of THB are not counted separately, but are part of the broader category of victims of serious crimes. GRETA was informed that a new data collection system was being developed by the RVR, but it would not be available for some three more years. At the same time, based on information received from NGOs, lawyers and officials, GRETA concludes that victims of THB are, as a rule, represented by a lawyer throughout the criminal proceedings.

53. However, no legal assistance is provided to victims of THB during the initial ("intake") interview with law enforcement agencies, even though the outcome of this interview may have major legal consequences. Only after a person is identified as a presumed victim of THB on the basis of the "slightest indication" of human trafficking (see paragraph 179), he/she becomes entitled to a lawyer.

54. GRETA was informed that access to free legal aid is not guaranteed to recover back wages or file a compensation claim in a civil court (see paragraph 72). During the evaluation visit RVR officials told GRETA that victims of labour exploitation, when it is not qualified as THB but is treated as a situation of "serious disadvantage" (see paragraph 150), can apply for legal aid but would need to fill in more paperwork, including providing proof of their income.

55. GRETA welcomes the availability of free legal assistance and legal aid for victims of trafficking in the criminal proceedings against perpetrators, and considers that the Dutch authorities should take additional measures to ensure that all presumed victims of trafficking have effective access to free legal assistance and legal aid in related fields, such as civil, labour and immigration law.

4. Psychological assistance (Article 12)

56. Human trafficking and exploitation may have serious psychological and physical consequences for the victims, including mental health problems and loss of self-esteem. Psychological assistance is needed to help victims of trafficking overcome the trauma they have been through, and to achieve a sustained recovery and social inclusion. Some victims require long-term therapeutic intervention due to the violence they have suffered. Every victim of trafficking should have a clinical assessment tailored to include an evaluation of their particular readiness for therapy, conducted by an experienced clinician.⁵⁶ In the case of trafficked children, specialist child psychologists should be employed.

⁵⁵ [Advocatuur - CoMensha - Coördinatiecentrum tegen Mensenhandel](#)

⁵⁶ OSCE, *Trafficking in Human Beings Amounting to Torture and Other Forms of Ill-Treatment* (2013), Vienna, page 115.

57. In the Netherlands, victims of THB have access to general health services, which include psychological assistance, and are organised and financed at the municipal level. However, according to NGOs supporting victims of THB, there are long waiting lists for psychologists in the general health-care system (over nine months) and victims of THB are not given a priority. It is necessary to have social insurance in order to access general psychological care, which is not always the case for victims of THB.

58. Some shelters offering assistance to victims of THB have their own inhouse mental health professionals. For example, "HVO Querido" in Amsterdam, which functions partly as a category-oriented shelter for third-country national victims of human trafficking (COSM), has an in-house psychologist who attends the shelter once a week and provides group and individual therapy. "Sterk Huis" in Goirle, which provides, *inter alia*, accommodation to girls victims of "pimp boyfriends", as well as to unaccompanied children and women victims of domestic violence, has a psycho-trauma centre, employing 16 psychologists and a psychiatrist.

59. **GRETA considers that the Dutch authorities should guarantee timely access of victims of trafficking to psychological assistance and ensure that it is provided for as long as their individual situation requires, in order to help them overcome the trauma they have been through, and achieve a sustained recovery and social inclusion.**

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

60. Article 12, paragraph 4, of the Convention requires State Parties to enable victims of trafficking who are lawfully present in the country to have access to the labour market, vocational training and education. An important element of the recovery and successful social inclusion of trafficked persons is their economic empowerment, which can be achieved through job placement, micro-businesses and social enterprises.⁵⁷ GRETA has stressed the need to develop public-private partnerships with a view to creating appropriate work opportunities for victims of trafficking.⁵⁸

61. In the Netherlands, there is an extensive network of organisations, including specialised shelters, that assist victims to access the labour market through vocational training and Dutch and English language courses. The shelters visited by GRETA offered empowerment training, social skills training, and support with job search. Victims were provided with jobs, for example, in the hospitality sector, care for the elderly or child care.

62. However, in practice, victims of THB often face barriers in obtaining access to the labour market, due to factors such as the trauma of having been exploited, insufficient command of the Dutch language, low level of education or lack of professional skills, and, on the part of prospective employers, prejudice and social stigmatisation. The economic and social inclusion of foreign victims of THB from outside the EU is hampered by the difficulty of obtaining a residence permit in the Netherlands (see paragraph 210). In this respect, GRETA notes that the National Rapporteur reported that almost half of the victims of THB reappear as victims of crime within five years.⁵⁹ More systematic efforts are therefore needed to support the successful social inclusion of victims of THB.

63. **GRETA considers that the Dutch authorities should strengthen effective access to the labour market for victims of THB and their economic and social inclusion through the provision of vocational training and job placement, raising awareness amongst employers, and the promotion of micro-businesses, social enterprises and public-private partnerships, including through state supported employment programmes, with a view to creating appropriate work opportunities for victims of trafficking.**

⁵⁷ Rebecca Surtees, NEXUS Institute, *Re/integration of trafficked persons: supporting economic empowerment*, Issue paper No. 4, King Baudouin Foundation (2012).

⁵⁸ See 8th General report on GRETA's activities, paragraph 183.

⁵⁹ [Victim Monitor 2016-2020](#), page 6.

6. Compensation (Article 15)

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

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

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

67. The legal framework for compensation of victims of THB in the Netherlands remains as described in GRETA's second evaluation report.⁶⁰ Namely, victims may seek compensation for material and non-material damages from the perpetrator during the criminal proceedings. Alternatively, victims can pursue their compensation claim before a civil court. As already mentioned in paragraph 41, victims must be informed of their right to compensation and the requirements for claiming compensation during the initial contact with a law enforcement officer.

68. According to the Victims' Rights Instruction, the OM supports the victim as much as possible in obtaining compensation from the perpetrator during the criminal proceedings.⁶¹ Victims of THB are represented by a lawyer during criminal proceedings, who claims compensation on behalf of the victims, and therefore compensation is usually dealt with as part of the criminal proceedings. Judges met by GRETA during the visit stated that they would deal with a victim's compensation claim unless dealing with it would entail a disproportionate burden or delay in the criminal trial. Victims do not need to be present in the Netherlands in order to claim compensation.

⁶⁰ See GRETA's second report on the Netherlands, paragraph 171.

⁶¹ <https://wetten.overheid.nl/BWBR0045831/2021-12-01>

69. Compensation covers material and non-material (moral) damages. Material damages can include loss of wages in cases of labour exploitation. Victims of THB can also claim compensation for earnings resulting from exploitation in prostitution. When victims of THB are unable to submit sufficient evidence for their compensation claim (for example, the exact number of hours they worked) a lump sum can be granted by the court based on information collected during the investigation about the hourly rates charged to the victims' clients, as well as the average number of working days per week and per year. A State body, the Central Judicial Collection Agency (CJIB), will pay the compensation to the victim if the perpetrator has not done so within eight months of a final conviction and then try to recover the money from the perpetrator.

70. The Dutch authorities do not have data on the number of victims of THB who were awarded compensation from the perpetrators during criminal proceedings, but the court cases reviewed by GRETA for this report provide many examples. By way of illustration, the North Holland District Court, by judgment of 13 January 2020, awarded a victim material damages of 295,480 euros for unpaid earnings from six and a half years of exploitation in prostitution.⁶² The Amsterdam District Court, by judgment of 8 October 2020, awarded two victims material damages totalling 427,815 euros for unpaid earnings from up to seven years of exploitation in prostitution.⁶³ The Hague Court of Appeal, by judgment of 12 November 2020, awarded a victim material damages of 288,600 euros for unpaid earnings from four and a half years of exploitation in prostitution.⁶⁴

71. NGO representatives stated that in complex cases involving labour exploitation criminal courts are more likely to refer victims to civil courts. A recent ILO report supported the NGO position on this.⁶⁵ GRETA was informed that in large cases of labour exploitation involving dozens or more potential victims, only those with the strongest evidence will be included on the indictment by the OM, who has a vested interest to keep the indictment brief to ensure efficiency of the proceedings.⁶⁶ This means that all other victims cannot claim compensation from the perpetrator in the criminal proceedings, and on top of that risk termination of other protection measures (see paragraph 149).

72. CoMensha and other NGOs informed GRETA that victims of THB do not have recourse to civil proceedings in practice, because there is not free legal aid envisaged, victims must pay a fee to file a claim in a civil court and need to prove their claim and, if compensation is awarded, victims have to recover the award from the trafficker themselves. The same difficulties apply to compensation mechanisms under labour legislation, for example Article 23 of the Aliens Employment Act, which implemented the EU Employers' Sanctions Directive and makes an employer found to have illegally employed a foreign worker liable to pay the full wages to this worker.⁶⁷

73. Victims of THB may apply for state compensation to the Violent Offences Compensation Fund ("*Schadefonds Geweldmisdrijven*").⁶⁸ Victims of violent intentional crimes committed on Dutch territory, irrespective of their nationality or legal status in the Netherlands, may seek compensation from this Fund. The amount of compensation varies between 1,000 and 35,000 Euro, depending on which category the sustained physical or mental injury fits. Applicants do not need to be officially recognised as victims of THB and can apply independently of the existence and outcome of criminal or civil proceedings. Since July 2019, victims of any type of THB, including labour exploitation, can apply, but more than 80% of applications still concerned THB for sexual exploitation.

⁶² [ECLI:NL:RBNNE:2020:99, Rechtbank Noord-Nederland, 18/850076-18 \(rechtspraak.nl\)](#)

⁶³ [ECLI:NL:RBAMS:2020:4875, Rechtbank Amsterdam, 13/728190-15 \(zaak A\) en 13/730065-17 \(zaak B\) \(ter terechtzitting gevoegd\) \(rechtspraak.nl\)](#)

⁶⁴ <https://uitspraken.rechtspraak.nl/#!/details?id=ECLI:NL:GHDHA:2020:2175>

⁶⁵ See ILO, [Access to protection and remedy for human trafficking victims for the purpose of labour exploitation in Belgium and the Netherlands](#), 2021, page 69.

⁶⁶ See ILO, [Access to protection and remedy for human trafficking victims for the purpose of labour exploitation in Belgium and the Netherlands](#), 2021, page 78.

⁶⁷ See ILO, [Access to protection and remedy for human trafficking victims for the purpose of labour exploitation in Belgium and the Netherlands](#), 2021, page 81.

⁶⁸ <https://www.schadefonds.nl/en/>

74. Between January 2018 and October 2022, the Fund awarded compensation to 308 victims of THB and declined 171 applications from victims of THB. Officials of the Fund met by GRETA stated that in theory, a victim of labour exploitation, which is not qualified as THB but amounts to a situation of "serious disadvantage" (see paragraph 149), could apply to the Fund, though no actual case had come before the Fund. According to the Dutch authorities, payments by the Fund are not taxable and will not be deducted from social assistance benefits or make victims ineligible to apply for such benefits in the future.

75. GRETA was informed that compensation of victims of THB is covered by the regular training for prosecutors and judges provided at the Training and Study Centre for the Judiciary (see paragraph 116).

76. GRETA welcomes the attention paid to victim compensation in the Netherlands and considers that the authorities should make efforts to guarantee effective access to compensation for victims of human trafficking, in line with Article 15 (4) of the Convention, including by:

- **ensuring that victims of trafficking for the purpose of labour exploitation can obtain compensation from the perpetrator as part of criminal proceedings, and allowing all victims of trafficking to join the criminal proceedings against the perpetrator and claim compensation, regardless of the number of victims in the case;**
- **enabling all victims of trafficking to effectively exercise their right to compensation in civil and labour law proceedings.**

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

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

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

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

80. The text of Article 273f of the Dutch CC, which criminalises THB, has remained unchanged since GRETA's second report. The penalty envisaged in Article 273f of the CC for the basic offence of trafficking in human beings is imprisonment of up to 12 years and a fine. The maximum penalty is increased to 15 years' imprisonment and a fine when the crime is committed by two or more persons acting in concert, against a child, or with the use of violence. If the crime is committed with the use of serious violence or results in serious injury or threatens a person's life the maximum is raised to 18 years' imprisonment. The maximum penalty is life imprisonment if THB results in death.

81. Plea bargaining does not exist in the Dutch legal system.

82. According to data provided by the EMM, there were 893 investigations for THB in the period 2017-2021 (190 in 2017, 206 in 2018, 177 in 2019, 172 in 2020 and 148 in 2021).⁶⁹ The overwhelming majority of the investigations (729) concerned THB for the purpose of sexual exploitation (55% concerning internal trafficking and 45% concerning transnational trafficking), followed by 57 cases on THB for labour exploitation, 49 cases on THB for forced criminality and 3 cases on THB for organ removal. In the remaining 55 cases the type of exploitation was not known. In the period 2017-2019, 485 persons were officially identified as victims in the investigations conducted by the police and KMar, but the EMM possessed no data on the number of victims identified in the investigations conducted by the NLA.

83. During the period 2017-2019, 287 persons were prosecuted for THB (107 in 2017, 88 in 2018 and 92 in 2019).⁷⁰ Around 75% of them were prosecuted for sexual exploitation. According to the latest Perpetrator Monitor published by the National Rapporteur, there has been a considerable increase in the number of cases registered at the OM in 2020 and 2021 but there is an almost equally large increase in the number of cases subsequently dismissed by the OM, usually for lack of evidence. In the period 2017-2021 the OM decided not to prosecute approximately 45% of registered cases.⁷¹ During the period 2017-2019, 252 persons were convicted of THB (212 for sexual exploitation, 19 for labour exploitation and 14 for forced criminality). Of them, 134 were sentenced to non-suspended imprisonment (of whom 79 to over two years' imprisonment), 102 to partly suspended imprisonment, eight to a suspended prison sentence, six to a fine, and one to community service. These statistics concern first instance courts and do not take into account possible appeal proceedings. GRETA notes the relatively low number of sentences of over two years' imprisonment and the lack of disaggregated data on the length of the sentences over two years. GRETA was informed by various interlocutors that there were very few effective custodial sentences for THB for labour exploitation. Further, GRETA was told that the sentences for child trafficking by "pimp boyfriends" were often low (e.g. six months with probation).

84. GRETA notes with concern that the number of investigations, prosecutions and convictions for THB, and particularly for THB for the purpose of labour exploitation, has decreased since 2015 as a result of the more restrictive interpretation of Article 273f of the CC by the Netherlands Supreme Court. As already noted in GRETA's second report, in a decision of 17 May 2016,⁷² which concerned a Hungarian woman who had arrived in the Netherlands to be engaged in prostitution and whose flight ticket had been purchased by the alleged trafficker, the Supreme Court ruled that the intention to exploit was implicit in Article 273f(1)3 of the CC and therefore this intention needed to be proven for an act to constitute THB. In this case, the Court found that an intention to exploit could not be found and therefore the case could not be considered as THB. The Supreme Court has ruled in several other cases that, although the intention to exploit is not explicitly stated as an element of the offences in Section 273f(1)3,4 and 9 of the CC, it is implied in them.⁷³ Considering the reduced chances of securing a conviction, law enforcement authorities

⁶⁹ [Perpetrator Monitor 2017-2021](#), pages 65 to 61. Compared to 278 in 2014 and 217 in 2015, see GRETA's second report on the Netherlands, paragraph 219.

⁷⁰ Compared to 193 in 2014 and 184 in 2015, see GRETA's second report on the Netherlands, paragraph 219.

⁷¹ [Perpetrator Monitor 2017-2021](#), pages 75 to 79.

⁷² HR 17 May 2016, [ECLI:NL:HR:2016:857](#) (concerning Article 273f(1)3).

⁷³ HR 24 November 2015, [ECLI:NL:HR:2015:3309](#) and HR 5 April 2016, [ECLI:NL:HR:2016:554](#) (concerning Article 273f(1)4) HR 16 October 2018, [ECLI:NL:HR:2018:1941](#) (concerning Article 273f(1)9). See also L. Essers, [Mensenhandel, uitbuiting en de Hoge Raad: een overzicht en waardering](#), Nederlands Tijdschrift voor Strafrecht, no. 2020/1, pages 27-36 (in Dutch).

refrain from opening criminal cases under Section 273f and prefer initiating criminal proceedings on related criminal charges or start an administrative law procedure (see paragraph 149).

85. Although the Supreme Court has not overruled its 2009 judgment in the Chinese Catering Case,⁷⁴ which spelled out the criteria of what constitutes labour exploitation, in practice it became harder to secure a conviction for THB because of the requirement to prove the intention to exploit the victim(s). For example, on 7 January 2021 the Amsterdam Court of Appeal acquitted the employer of an illegally employed Indian cook of THB because the cook's salary, which was well below the minimum wage in the Netherlands, had been transferred to his bank account, even if the cook did not have access to his bank account. The employer was convicted for theft of the cook's salary.⁷⁵ On 27 May 2021 the 's-Hertogenbosch Court of Appeal quashed the conviction for THB of an agricultural business and its director because the breach of the Polish workers' physical and mental integrity was not considered sufficiently serious to prove that they had been exploited.

86. In 2021 the National Rapporteur criticised the low number of prosecutions of human trafficking for labour exploitation and noted that the explanation of what constitutes labour exploitation was not as clear in the Dutch CC as that of sexual exploitation.⁷⁶ According to a 2021 report by the ILO, the threshold applied to prove THB for the purpose of labour exploitation is very high.⁷⁷ A 2022 research report commissioned by CoMensha and FNV demonstrates how in recent case-law the level of coercion applied on the victims or the degree of exploitation was considered not serious enough to fall under Section 273f of the CC.⁷⁸

87. As stated in GRETA's second evaluation report, Section 51 of the CC provides that legal entities can bear criminal liability, including for the offence of human trafficking. During the reporting period one legal entity was convicted for THB. GRETA was told that criminal proceedings against legal entities are usually discontinued because they have no assets or have already been liquidated.

88. In November 2021, the OM issued a new Directive for Criminal Procedure in Human Trafficking spelling out binding instructions for prosecutors on how to calculate penalties depending on the type of exploitation and other relevant factors (the duration of the exploitation, the number and the vulnerability of the victims, the amount of profit made by the perpetrator(s)).⁷⁹ The conference of presidents of the criminal sections of district and appeal courts regularly publishes non-binding Orientation Points for Sentencing, stating recommended sentences based on various aggravating and mitigating factors.⁸⁰ These Orientation Points are based on case-law, but as mentioned above, the sentences for THB have tended to be low, and there is a risk that the recommended sentences would not reflect the seriousness of the THB offences.

89. According to point 2.3 of the OM's Directive on THB a financial investigation must always be conducted in a human trafficking case. The legal framework for the confiscation of assets, including laundered property, profits derived from illicit activities and property of corresponding value, is stipulated in Sections 33, 33a, 36e and 94a of the CPC. Assets subject to confiscation at the moment of conviction can be temporarily seized by law enforcement authorities at the investigation stage (Section 94 of the CPC). The Dutch authorities did not have data on the number of cases of THB which involved seizure and confiscation of assets. Confiscated assets are transferred to the State which would pay compensation to victims if the perpetrator has not done so within eight months (see paragraph 69).

⁷⁴ <https://uitspraken.rechtspraak.nl/#!/details?id=ECLI:NL:HR:2009:BI7097>

⁷⁵ <https://uitspraken.rechtspraak.nl/#!/details?id=ECLI:NL:GHAMS:2021:1575>

⁷⁶ [Perpetrator Monitor 2015-2019](#), pages 44-54.

⁷⁷ https://www.ilo.org/wcmsp5/groups/public/---europe/---ro-geneva/---ilo-brussels/documents/publication/wcms_783811.pdf

⁷⁸ <https://userfiles.mailswitch.nl/files/1284-b24a5cab8d4a1b60761166db2c0ae2da.pdf>

⁷⁹ <https://wetten.overheid.nl/BWBR0045738/2021-11-01/>

⁸⁰ <https://www.rechtspraak.nl/SiteCollectionDocuments/Orientatiepunten-en-afspraken-LOVS.pdf>

90. The Financial Intelligence Unit (FIU), a service under JenV tasked with combatting money laundering and terrorism financing, has two operational analysts who focus on THB. FIU closely co-operates with AVIM and NLA. For example, in 2022, following a filing from a Dutch bank stating that 20 Bulgarians employed by the same employment agency always withdrew cash from an ATM at the same time, the FIU established that the withdrawals were made by one man, who then deposited the money (over 2 million Euro) into the personal account of the employment agency's owner. The FIU reported the case to the NLA, which initiated a criminal investigation into THB for labour exploitation. In June 2023 the investigation was still ongoing.

91. GRETA was informed that law enforcement authorities frequently apply special investigative techniques to gather evidence of THB. The use of special investigative techniques, such as interception of telecommunications, is illustrated by the judgments in THB cases presented to GRETA. During the evaluation visit police officials told GRETA that they had used open-source intelligence and a web crawler in a largescale investigation into forced prostitution from China and Thailand, but also recognised that they were still testing the legal framework to use these tools. The National Rapporteur and anti-trafficking NGOs stated that officials had repeatedly announced advanced tools like web crawler and decoy profiles, but have rarely applied these technologies in practice.⁸¹

92. Reference is made to a case which illustrates both good practices and shortcomings in the handling of trafficking cases in the Netherlands:

- **Trial court:** District Court of Amsterdam
- **Date and number of judgments:** 17 February 2022, [ECLI:NL:RBAMS:2022: 674](#) (related judgments: 17 February 2022, [ECLI:NL:RBAMS:2022: 672](#), 27 July 2022 [ECLI:NL:RBAMS:2022:4359](#) and 24 August 2022 (unpublished))
- **Time and duration of the proceedings:** one year from victim's complaint to first instance judgment against the two main defendants. No appeals were filed and the judgments became final.
- **Victim:** one adult female with mental problems
- **Defendants:** one adult male, two adult females

Type of exploitation: THB for the purpose of sexual exploitation. Between January 2020 and February 2021 the first defendant induced the victim (a young Dutch woman with mental problems living in assisted housing) to prostitute herself and to hand over most of her earnings to him, by maintaining in her the false prospect of a common future. The victim's earnings benefited the first defendant and his wife (the second defendant). In May 2020 the hotel in which the victim met some of her clients notified the police. In August 2020 the police interviewed the victim, who denied everything. In February 2021 the police re-interviewed the victim. When she was told the defendant was actually married with children, she filed a complaint about THB and the first defendant was arrested. The OM indicted the first defendant's wife as a co-defendant under Section 273f(1)6 of the CC because she had been aware of the exploitation and had profited from the victim's earnings. Another woman, who had established the contact between the victim and the first defendant, was charged as an accomplice.

Sentences: The first defendant was convicted of THB (Section 273f(1) of the CC) and sentenced to 30 months' imprisonment. The second defendant was convicted of THB (Section 273f(1)6 of the CC) and sentenced to 15 days' imprisonment and 240 hours of community service. The second woman was acquitted because she had been unaware of the exploitation, nor had she profited from it.

Compensation: The judgments of 17 February 2022 convicting the first and second defendant awarded the victim 5,000 Euro for moral damages and 53,100 Euro for material damages resulting from the loss of earnings from exploitation in prostitution. The court calculated the amount of material damages based on the estimated hourly rates charged to the victim's clients, as well as the average number of working days per week.

Additional proceedings: Following the conviction of the first defendant the OM sought a separate court decision obliging the convicted person to pay an amount of money to the State equal to the illicit profits of his crime (Section 36e of the CC). A report by the OM calculated the total earnings of the victim received by the defendants

⁸¹ <https://www.nationaalrapporteur.nl/actueel/nieuws/2018/11/14/reactie-nationaal-rapporteur-op-programma-samen-tegen-mensenhandel>

(appr. 250,000 Euro) minus expenses for hotel, taxi and online advertisement (appr. 100,000 Euro). In an unpublished judgment of 24 August 2022, the Amsterdam District Court, noting that the first defendant had not yet compensated the victim, ordered him to pay approximately 75,000 Euro because the remaining 75,000 Euro had presumably benefited the second defendant.

Good practices:

- The hotel where the victim met with clients alerted the police.
- The victim was interviewed by specialised police officers.
- The police and the OM seized social media messages between the victim and the defendants and between the defendants themselves as evidence and seized money and luxury items in the defendants' possession.
- The victim was represented by a lawyer during the criminal proceedings.
- The victim was awarded compensation as part of the criminal proceedings, including material damages for loss of earnings from exploitation in prostitution.
- The criminal proceedings lasted approximately one year.

Shortcomings:

- Although the victim referred to the detailed calculations by the OM of the illicitly obtained profits, the trial court awarded her a far lower amount of compensation for material damages (53,100 Euro instead of appr. 150,000 Euro).

93. According to the Dutch authorities, the average length of criminal proceedings in 695 cases of THB in the period 2015-2019 was almost two years from the time the case was registered with the OM until the date of the judgment of the first instance court (seven months at the OM and 16 months at the first instance court). However, there is an important difference between the average duration of proceedings in labour exploitation cases (36 months) compared to sexual exploitation and forced criminality (16 months). The two-year period does not include the duration of the police investigation, which can last several years in complex cases, or any appeal proceedings, which also take considerable time. Judges met by GRETA during the visit pointed out that the examination of witnesses at the request of the defence is time-consuming, in particular in cases of transborder THB. GRETA was informed of a case involving Hungarian victims of sexual exploitation recruited by a Hungarian woman who was initially a victim of THB herself, which was detected in 2008 and was prosecuted in 2021. Furthermore, when a defendant is not in pre-trial detention, which often happens in cases of THB for labour exploitation, the case becomes less of a priority. GRETA notes that in two recent judgments of the District Court of The Hague in which the defendants' sentences were reduced by six and three months because the proceedings lasted unreasonably long.⁸²

94. GRETA is concerned by the decreasing number of investigations, prosecutions and convictions for THB, in particular for labour exploitation, and the length of criminal proceedings in cases of THB. GRETA stresses that failure to convict traffickers and the absence of effective, proportionate and dissuasive sanctions, undermine efforts to combat THB and to support victims to testify.

95. GRETA urges the Dutch authorities to strengthen their efforts to investigate and prosecute cases of THB for the purpose of labour exploitation (see also paragraph 163).

⁸² The Hague District Court, judgment of 22 March 2021, [ECLI:NL:RBDHA:2021:2660, Rechtbank Den Haag, 09/827581-17 \(rechtspraak.nl\)](#); The Hague District Court, judgment of 18 October 2021, [ECLI:NL:RBDHA:2021:11310, Rechtbank Den Haag, 09/767318.16 \(rechtspraak.nl\)](#)

96. **Further, GRETA considers that the Dutch authorities should take additional measures to strengthen the criminal justice response to THB, including by:**

- **ensuring that trafficking offences are classified as such every time the circumstances of a case allow this; the concept of “abuse of a position of vulnerability”, which is part of the definition of human trafficking, should be properly applied in practice;**
- **developing the legal framework to enable the use of technological developments to gather material, documental, financial and digital evidence;**
- **ensuring that the length of court proceedings in cases of trafficking of human beings is reasonable, in line with the case-law of the European Court of Human Rights (Article 6, paragraph 1 of the ECHR) and the standards set by the European Commission for the Efficiency of Justice (CEPEJ).⁸³**

8. Non-punishment provision (Article 26)

97. Pursuant to Article 26 of the Convention, Parties must provide for the possibility of not imposing penalties upon victims of THB for their involvement in unlawful activities, to the extent that they have been compelled to do so. As previously stressed by GRETA, the criminalisation of victims of THB not only contravenes the state’s obligation to provide services and assistance to victims, but also discourages victims from coming forward and co-operating with law enforcement agencies, thereby also interfering with the state’s obligation to investigate and prosecute those responsible for THB.⁸⁴ Furthermore, GRETA has noted that the absence of a specific provision on the non-punishment of victims of trafficking entails a risk of differential treatment, depending on the prosecutor in charge of the case.

98. There have been no legal developments in the Netherlands with regard to the non-punishment provision of the Convention, despite previous recommendations by GRETA to introduce in law a specific provision on the non-punishment of victims of THB. Pursuant to Sections 167(2) and 242(2) of the CPC prosecution may be waived on grounds of public interest. This provision was clarified in two policy documents of the OM. According to the Directive on dismissal and grounds of dismissal, the OM has discretionary power to decide not to prosecute victims of THB on two grounds: “offender not punishable” (code 06) and “low punishability” (code 42).⁸⁵ ‘Code 06’ can be used if the offender, herself a victim of human trafficking, committed the offence under duress. The OM’s Directive synonymises ‘code 06’ with the non-punishment principle. ‘Code 42’ can be used if the offender is herself a victim of human trafficking and there is such a direct relationship between the offence and the said human trafficking that prosecution of the offender is not opportune, even though the non-punishment principle is strictly speaking not applicable. Point 3.2 of the OM’s Directive on THB also refers to the non-punishment principle, stipulating that the non-punishment principle does not preclude the prosecution of victims of THB for crimes they have voluntarily committed, but in cases where it is evident that victims have been coerced into committing offences, prosecutors may consider dismissing the case or seek a guilty verdict without imposition of punishment or with a reduction of the punishment.

99. According to Section 9a of the CC, the non-punishment principle can also be given effect through a court verdict. In the event that a victim is prosecuted for a punishable offence and the court regards him/her as guilty, the court may nonetheless decide, given the circumstances, not to impose a punishment. Depending on the severity of the offence, it may be registered in the defendant’s judicial record, regardless of whether the punishment is imposed or not, unless the case concerns a child under the age of 12, in which case there will in any event be no mention in his/her judicial record.

⁸³ <https://rm.coe.int/cepej-2018-26-en-rapport-calvez-regis-en-length-of-court-proceedings-e/16808ffc7b>

⁸⁴ See 2nd General Report on GRETA’s activities, paragraph 58.

⁸⁵ <https://wetten.overheid.nl/BWBR0046770/2022-07-01/0>

100. Prosecutors met by GRETA during the visit provided several examples of the application of the non-punishment principle involving child victims of THB. In one case a boy who had been forced by his uncle to commit burglaries was not prosecuted but his uncle was convicted for human trafficking.⁸⁶ In another case, a Hungarian woman who came to the Netherlands with her husband at the age of 18 to work as a prostitute, was accused of sexual exploitation of three other Hungarian women. She was acquitted in first instance but convicted on appeal in 2017.⁸⁷ In her cassation appeal she invoked the non-punishment principle. The Supreme Court held that, although the OM decided not to prosecute her for violating laws on immigration and prostitution because she had been forced into prostitution by her husband, she was nevertheless guilty of committing THB because it had not been proven that she had been forced by her husband to exploit the other women.⁸⁸

101. A recent study by the NGO Centre against child trafficking and human trafficking (CKM) found that the OM rarely applied the non-punishment principle to dismiss criminal proceedings against victims of THB.⁸⁹ Apparently only one trafficking victim has benefited from a 'code 06' decision in the past five years. Civil society representatives noted that the absence of a specific legal provision of the non-punishment of victims of THB created legal uncertainty and resulted in many victims of THB for the purpose of forced criminality being afraid to co-operate with the police due to fear of being prosecuted and/or reprisals from the traffickers.

102. GRETA notes that victims of THB cannot always rely on exceptions based on general criminal law provisions (for example duress, necessity) because these concepts are often narrower in scope than the non-punishment principle enshrined in the Convention and/or shift the burden of proof to the victim of trafficking. GRETA also recalls that the fear of reprisals for activities carried out under compulsion can be a persisting factor which deters victims of THB from contacting the authorities and/or support organisations, and co-operating during the investigation. The non-punishment principle is an essential cornerstone in the fight against human trafficking, preventing re-victimisation and ensuring that victims can access services.⁹⁰

103. GRETA considers that the Dutch authorities should take further steps to ensure consistent application of the principle of non-punishment of victims of THB for their involvement in unlawful activities, to the extent that they were compelled to do so. Consideration should be given to adopting a specific legal provision on the non-punishment of victims of trafficking for their involvement in unlawful activities, to the extent that they were compelled to do so, as part of the planned revision of Section 273f of the CC.

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

104. Under Article 28 of the Convention, Parties must take the necessary measures to provide effective and appropriate protection from potential retaliation or intimidation to victims and witnesses of human trafficking, as well as to members of civil society organisations supporting victims during criminal proceedings and, where appropriate, to victims' family members. Intimidation of victims and witnesses is nearly always aimed at suppressing evidence against defendants. Effective protection can be of various types (physical protection, relocation, identity change...) and depends on the assessment of the risks that victims and witnesses run. In addition, Article 28(3) provides that a child victim shall be afforded special

⁸⁶ Limburg District Court, judgment of 5 October 2022, [ECLI:NL:RBLIM:2022:7613](https://uitspraken.rechtspraak.nl/#!details?id=ECLI:NL:RBLIM:2022:7613), [Rechtbank Limburg, 03/066776-22, 03/171407-22 \(ttz. gev.\) \(rechtspraak.nl\)](https://uitspraken.rechtspraak.nl/#!details?id=ECLI:NL:RBLIM:2022:7613)

⁸⁷ Amsterdam Court of Appeal, judgment of 20 July 2017, <https://uitspraken.rechtspraak.nl/#!details?id=ECLI:NL:GHAMS:2017:2889>

⁸⁸ Supreme Court, judgment of 13 November 2018, <https://uitspraken.rechtspraak.nl/#!details?id=ECLI:NL:HR:2018:2011>

⁸⁹ <https://www.hetckm.nl/mediadepot/30804217deb0/CKM-Kijkenmetandereogendeel22022.pdf>, page 26.

⁹⁰ With regard to the non-punishment provision, see *V.C.L. and A.N. v. the United Kingdom* European Court of Human Rights final judgment of 5 July 2021.

protection measures, taking into account the best interests of the child. Regarding the period during which the protection measures are to be provided, the Convention aims in a non-exhaustive manner at the period of investigation and of the proceedings or the period following them. The period in which protection measures have to be provided depends on the threats to the persons concerned. Moreover, because trafficking in human beings is often international and some countries are small, Article 28(5) encourages Parties to enter into agreements or arrangements with other countries so as to implement Article 28.

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

106. In accordance with Section 51aa(3b) of the CPC, the police and the OM prepare an individual assessment of the risks faced by crime victims, including victims of THB. General protection measures for victims and witnesses include the possibility for the victim to give evidence outside the presence (or at least the view) of the defendant, by videoconference or, in exceptional cases, completely anonymous (Section 226a of the CPC).⁹¹ Furthermore, the record of the interrogation of a victim by an investigating judge during the criminal investigation can be used at the trial of the perpetrator later.

107. There also exists a special witness protection programme for victims and witnesses of THB, described in GRETA's first report on the Netherlands. Since being set up in 2010, this programme has been used only once because entering this programme has far-reaching consequences for victims, as it requires that they break all ties with their past, and victims prefer other protection measures.

108. As regards the protection of children in criminal proceedings, see paragraphs 127-129.

109. GRETA invites the Dutch authorities to make full use of all measures available in law to protect victims and witnesses of THB in order to prevent retaliation and intimidation during the investigation and/or after the court proceedings.

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

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

111. As noted in paragraph 18, co-ordination of the development of the integrated approach to human trafficking in the Netherlands is ensured by the Task Force Human Trafficking, chaired by the OM and including representatives from relevant state and municipal bodies, as well as NGOs. The Task Force has met 14 times since 2018.

112. Within each of the 10 regional police directorates in the Netherlands, there is an Aliens Police, Identification and Trafficking Department (AVIM) tasked with identifying victims of THB and investigating THB offences, as well as other offences relating to foreigners. Each AVIM has a dedicated THB team, as well as one or two officers specialising on cybercrime. GRETA was informed that there are currently 380 to 400 officers working on THB cases. In 2020 the Dutch government allocated an extra 10 million Euro to the police budget for action against THB. Police officers met by GRETA during the visit stated that their

⁹¹ See GRETA's first evaluation report on the Netherlands, paragraphs 234-236.

human resources were adequate. About half of the officers in the THB team of the AVIM in The Hague were female, making it possible for female victims of THB to be interviewed by female officers. However, according to civil society organisations, the human resources of the AVIM are not sufficient and the fact that the AVIM are responsible for investigating both human trafficking and irregular migration could be accountable for the decrease in the number of presumed victims of THB and investigations for THB (see also paragraph 180). All AVIM officers working in the THB teams must undergo a training on THB lasting 20 weeks at the Police Academy and pass an exam. The Police Academy also offers refresher courses, as well as shorter training on THB for other police officers.

113. The AVIMs closely co-operate with the Royal Netherlands Marechaussee (KMar), which is responsible for border control. KMar does not have specialised THB teams, but all KMar officers are encouraged to follow training on THB and can be assigned to shelters for victims of THB as part of their training.

114. The AVIMs also co-operate with the Financial Intelligence Unit (FIU), the Immigration and Naturalisation Service (IND) and the Netherlands Labour Authority (NLA). Their respective roles in combating THB are discussed in paragraphs 90 (FIU), 182 (IND) and 146 (NLA).

115. There are approximately 20 specialised prosecutors working on THB cases: one in each of the 10 regional branches of the Prosecutor's Office (OM),⁹² one at each of the four Courts of Appeal, and a few more at the National and Functional OMs, dealing with the most serious cases of THB. In some district courts (for example in The Hague and Amsterdam), as well as appeal courts, THB cases are allocated to chambers which have judges with experience in THB cases, but this is not possible in all district courts.

116. Prosecutors and judges regularly participate in training on THB organised at the Training and Study Centre for the Judiciary (SSR).⁹³ For example, in 2022 the SSR organised two one-day basic courses on THB, two two-day in-depth courses on THB, and one thematic half-day on labour exploitation. In total, more than 200 prosecutors and judges took part in these courses. Furthermore, judges at the Amsterdam district court prepare periodically an internal bulletin on THB, containing relevant news and case law, which is available to all judges and prosecutors.

117. The Expertise Centre on Human Trafficking and People Smuggling (EMM) is a co-operation structure of the police, KMar, NLA, IND and OM that pools information relating to THB.⁹⁴ According to a new co-operation covenant signed by the five partners in 2021, the EMM collects and analyses information on THB, and in addition to operational reports, it also prepares tactical and strategic reports.⁹⁵ In addition, the EMM publishes reports on various topics, including THB from Nigeria and THB and people smuggling in relation to the war in Ukraine.⁹⁶

118. GRETA welcomes the existence of entities and professionals specialised to deal with THB cases and the training provided to them, and invites the Dutch authorities to continue building the capacity and specialisation of police officers, prosecutors and judges in the area of THB.

⁹² In one regional OM there are two specialised prosecutors.

⁹³ <https://ssr.nl/ssr-excellent-training-for-a-just-society/>

⁹⁴ <https://www.emm-online.nl/> and GRETA's second report on the Netherlands, paragraph 216.

⁹⁵ <https://www.emm-online.nl/binaries/emm-online/documenten/rapporten/2021/04/06/convenant-emm/convenant-emm.pdf>

⁹⁶ <https://www.emm-online.nl/publicaties>

11. International co-operation (Article 32)

119. Article 32 of the Convention requires parties to co-operate to the widest extent possible to prevent and combat THB, to protect and to provide assistance to victims, and to investigate and prosecute cases of THB. International co-operation between State Parties to the Convention is also essential for enabling access to effective remedies for victims of trafficking. Parties must co-operate with one another “to the widest extent possible”. This principle requires them to provide extensive co-operation to one another and to minimise impediments to the smooth and rapid flow of information and evidence internationally. As regards international co-operation in criminal matters for the purposes of investigations or proceedings, the provisions of the Convention neither cancel nor replace the provisions of relevant international or regional instruments⁹⁷ on mutual legal assistance and extradition, reciprocal arrangements between Parties to such instruments and relevant provisions of domestic law concerning international co-operation.

120. Since 2019 the Netherlands has participated in seven Joint Investigative Teams (JIT) in cases of THB (sometimes in combination with people smuggling, drug trafficking and other offences). The OM has made 269 legal assistance requests to other EU countries and 99 such requests to third countries. The NLA’s Directorate of Investigation has co-operated with counterparts from other countries in several criminal investigations into cases of THB for labour exploitation. Officials met by GRETA noted the good co-operation with most of the countries of origin of victims of THB, but referred to challenges in international co-operation with China, Thailand and countries in Latin America.

121. The police and the OM have liaison officers based in several countries, notably in Italy, since a substantial number of victim testimonies collected by Dutch authorities involve allegations of THB in Italy. The liaison officers bring these testimonies to the attention of their counterparts with recommendations for further investigation.

122. Within the European Multidisciplinary Platform against Criminal Threats (EMPACT) the Netherlands plays a leading role in a project focusing on international co-operation measures to protect and assist victims of THB for the purpose of sexual exploitation through online streaming. The head of the EMM (see paragraph 117) is the Dutch contact person in EMPACT.

123. The Dutch authorities have been actively engaged in bilateral and regional co-operation, such as the Khartoum Process (the migration dialogue between countries of origin, transit and destination in Europe and the Horn of Africa, of which the Netherlands assumed the chair in March 2020) and the Niamey Declaration, where best practices and data are shared and operational contacts are established. The Netherlands funds international development aid projects to the amount of 34 million euros, approximately a quarter of which is spent on projects relevant to combating THB. The partnerships with international organisations are particularly helpful for direct assistance to victims of trafficking. The partnership with the International Organisation for Migration (IOM) was revamped, with THB as one of the four focus themes. This partnership is currently operational in 12 countries in West Africa and will run until 2023. The collaboration with the UN Office on Drugs and Crime (UNODC) and the Office of the High Commissioner for Human Rights (OHCHR) aimed at combating THB and people smuggling in West Africa has been intensified, with a new contribution of 10.5 million euros for the period until the end of 2024. A project implemented by UNODC in Nigeria funds grants for NGOs supporting THB victims’ access to justice, reintegration and medical assistance, and includes the deployment of Nigerian magistrates in Italy and Spain. In 2021, another programme was initiated with the International Centre for Migration Policy Development (ICMPD) in Niger and Nigeria with the aim of improving operational collaboration to combat THB.

⁹⁷ For example, the European Convention on Extradition, the European Convention on Mutual Assistance in Criminal Matters and its protocols, Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member states, the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime.

124. GRETA welcomes the efforts made by the Netherlands in developing international co-operation in combating THB, including through participation in JITs and engagement in EMPACT, and invites the Dutch authorities to continue developing multilateral and bilateral co-operation in combating THB.

12. Cross-cutting issues

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

125. As noted in CEDAW General recommendation No. 33 on women's access to justice, discrimination against women, based on gender stereotypes, stigma, harmful and patriarchal cultural norms and gender-based violence, which affects women in particular, has an adverse impact on the ability of women to gain access to justice on an equal basis with men.⁹⁸ The Council of Europe Gender Equality Strategy 2018-2023 notes that while accessing justice might be difficult for everyone, it is even more so for women, due to gender inequality in society and in the justice system, and therefore one of the objectives of the Strategy is to ensure the equal access of women to justice.⁹⁹ GRETA notes that in the case of trafficking in human beings, gender stereotypes, prejudices, cultural barriers, fear and shame impact women's access to justice, and these barriers may persist during investigations and trials. This is particularly true for some groups of women, such as victims of gender-based violence, migrant, refugee and asylum-seeking women, ethnic minority women and women with disabilities. On the socio-economic level the obstacles include lack of awareness of one's legal rights and legal procedures or of how to access legal aid, which can stem from gender differences in educational levels, and access to information. A further obstacle may be the lack of financial resources, including the means to pay for legal representation, legal fees, judicial taxes, transportation to courts or child care.¹⁰⁰ Such obstacles, and remedies to them, are listed in a Council of Europe training manual for judges and prosecutors on ensuring women's access to justice, as well as in the publication "Women's Access to Justice: Guide for Legal Professionals".¹⁰¹

126. The Dutch authorities have stressed that the different needs of men and women are taken into account in the context of support to victims of THB in the Netherlands, including when accommodation is arranged. GRETA was informed that female victims of THB are usually interviewed by female police officers.

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

127. Regarding child victims and witnesses of THB, special measures exist for their protection during criminal proceedings in addition to the general protection measures mentioned in paragraphs 106 and 107. The police have specially trained officers to interview children. The investigators decide whether the interview should take place in a child-friendly interview room. This is almost standard for children under 12 years of age. Unless it is not in the interests of the child victim, a parent or carer is present until the substantive part of the interview begins.

128. According to the OM's Directive on Domestic Violence and Child Abuse, which also applies in cases of THB, child victims are interviewed only once in criminal proceedings whenever possible, and an audio-visual recording is made of this interview. The defence and the investigative judge can watch via a link and put additional questions where necessary. These recordings do not become part of the official record, but the written version of the interview does.

⁹⁸ CEDAW General recommendation No. 33 on women's access to justice, paragraph 8, CEDAW/C/GC/33 of 3 August 2015: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/GC/33&Lang=en

⁹⁹ Council of Europe Gender Equality Strategy 2018-2023, pp.24-26, <https://rm.coe.int/prems-093618-gbr-gender-equality-strategy-2023-web-a5/16808b47e1>

¹⁰⁰ Council of Europe training manual for judges and prosecutors on ensuring women's access to justice, page 13, available at <https://rm.coe.int/training-manual-women-access-to-justice/16808d78c5>

¹⁰¹ Available at: <https://rm.coe.int/factsheet-womens-access-to-justice/16808ff44e>

129. Victims who are children are usually not heard as witnesses by judges at public sessions, but by the examining magistrate in the closed room of the examining magistrate's office. Child victims can make use of the general facilities for victims in the courts, and some courts have additional specific facilities for vulnerable victims, such as a waiting or consultation room which is specially designed for minors.

c. role of businesses

130. As noted in GRETA's second report on the Netherlands, in 2014 the Dutch Social Economic Council advised the Government to support the development of Responsible Business Conduct (RBC) sector agreements.¹⁰² In spite of the positive steps taken by many businesses, evaluations show that the RBC policy is not effective enough, and there are still too few Dutch companies that do business in accordance with RBC norms. As a reaction to these evaluations, the government proposed an RBC policy in October 2020, consisting of a "smart mix of measures".¹⁰³ A key element of this new smart mix policy is a general due diligence obligation. The Dutch government wants all large companies, listed SMEs and medium-sized companies in high-risk sectors to be subject to a European RBC obligation and to this end actively engages with the European Commission, EU Member States and other European Institutions on the legislative initiative on corporate sustainability governance, including due diligence.

131. In September 2022 the Dutch government adopted a new National Action Plan on Business and Human Rights for 2022-2026, which aims at ensuring the implementation of the UN Guiding Principles on Business and Human Rights, contributing to ensuring respect for human rights throughout the supply chain, and increasing co-operation between public bodies, companies, business associations, trade unions, NGOs and other stakeholders.¹⁰⁴ The plan refers to the reform of Section 273f of the CC to make it easier to prosecute cases of THB for labour exploitation (see paragraph 161), but otherwise fails to mention concrete actions against THB.

132. The Netherlands also actively supports Finance Against Slavery and Trafficking (FAST), which is a multi-stakeholder initiative that works to mobilise the financial sector against modern slavery and human trafficking.¹⁰⁵ GRETA was informed that in 2015, ABN Amro bank, the University of Amsterdam and the NLA started the pilot project CONCRIM to explore how abuses such as labour exploitation can be recognised from the financial data possessed by a bank, such as money transfers. In the initial pilot project, ABN Amro discovered and reported 'dozens' of unusual situations. The FIU analysed the transactions, described a number of them as suspicious and reported them to the NLA (see paragraph 90). Following the project's success, it was expanded to other Dutch banks in March 2022 and now includes researchers from four universities with funding from the Dutch Research Organisation.

133. While welcoming the adoption of the National Action Plan on Business and Human Rights, GRETA considers that the Dutch authorities should further strengthen engagement with the private sector, in line with the UN Guiding Principles on Business and Human Rights¹⁰⁶ and Council of Europe Committee of Ministers Recommendation CM/Rec(2016)3 on human rights and business¹⁰⁷ and CM/Rec(2022)21 on preventing and combating trafficking in human beings for the purpose of labour exploitation,¹⁰⁸ with a view to raising awareness of the role and responsibility of businesses in supporting the rehabilitation and recovery of victims, and facilitation access to remedies.

¹⁰² See GRETA's second report on the Netherlands, paragraph 99.

¹⁰³ <https://open.overheid.nl/repository/ronl-1a58c4b1-ab68-41e2-93f2-405c385984f5/1/pdf/imvo-van-voorlichten-tot-verplichten.pdf>

¹⁰⁴ https://www.government.nl/binaries/government/documenten/publications/2022/11/8/national-action-plan-business-and-human-rights/22_387+NAP+Bedrijfsleven+%26+Mensenrechten_EN_def.pdf

¹⁰⁵ [Home page - Finance Against Slavery and Trafficking \(fastinitiative.org\)](https://www.fastinitiative.org/)

¹⁰⁶ http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

¹⁰⁷ [Recommendation CM/Rec\(2016\)3](#) of the Committee of Ministers to member States on human rights and business, adopted by the Committee of Ministers on 2 March 2016 at the 1249th meeting of the Ministers' Deputies.

¹⁰⁸ [Recommendation CM/Rec\(2022\)3](#) of the Committee of Ministers to member States on preventing and combating trafficking in human beings for the purpose of labour exploitation and [Explanatory Memorandum](#), adopted on 27 September 2022.

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

d. measures to prevent and detect corruption

135. Trafficking in human beings can occur in various contexts. Human traffickers may form part of organised criminal groups, which frequently use corruption to circumvent the law, and money laundering to conceal their profits. Other Council of Europe legal instruments, in particular those designed to combat corruption, money laundering and cybercrime, are also relevant to combating human trafficking. The Council of Europe body with the main role to play in the fight against corruption is the Group of States against Corruption (GRECO). Its country reports are relevant in addressing structural shortcomings in preventing corruption, including potentially in a THB context.

136. In its fifth round report on the Netherlands (2018) GRECO noted the high degree of trust the police enjoys in Dutch society. Although there is a strong commitment to integrity matters in the police services in the Netherlands and policies in this respect have long been a priority, the police have not been spared of integrity violations, for example, in respect of leaking information and connections with organised crime groups. GRECO recommended to enhance control measures in respect of access to and use of confidential information and provide further guidance on this issue in the code of conduct for the police.¹⁰⁹

137. The Dutch authorities reported having no knowledge of cases of corruption or related misconduct of public officials in THB cases. Both active and passive bribery are criminalised in Sections 177 to 178a and 362 to 364a of the CC. The criminal provisions on active and passive bribery include the terms "gift", "promise" and "provide or offer a service". All gifts, including customary gifts of little value (for example representational gifts) potentially fall within the scope of the criminal provisions on bribery.

V. Follow-up topics specific to the Netherlands

1. Data collection and data protection

138. In its second evaluation report, GRETA considered that the Dutch authorities should ensure that all presumed victims of THB are reported by providing guidance on the scope of data protection legislation and ensure that data on THB are made available in a timely manner to serve as an evidence base for future policy measures.

139. As noted in GRETA's previous reports, CoMensha registers all presumed victims of THB and receives a government subsidy for this. However, only the police, KMar and NLA are required to notify presumed victims to CoMensha. Other actors coming into contact with presumed victims are under no formal obligation to report victims to CoMensha and some actors refer to data protection legislation to refrain from reporting cases to CoMensha if victims did not give their consent to this. In 2018, the year in which the EU General Data Protection Regulation (2016/679) entered into force, the number of presumed victims dropped to its lowest level (742).

¹⁰⁹ https://rm.coe.int/fifth-evaluation-round-preventing-corruption-and-promoting-integrity-i/1680931c9d_paragraphs_212_to_216.

140. A study by CoMensha concluded that the registration of presumed victims of THB, which inevitably entails processing certain personal data, does not require a victim's consent because it constitutes a task carried out in the public interest and might even be necessary to protect an interest which is essential for the victim's life.¹¹⁰ Although an extensive manual on the General Data Protection Regulation was published by JenV in 2018,¹¹¹ GRETA notes that the Dutch authorities have not provided practical guidance on data protection to NGOs and professionals likely to encounter presumed victims of THB.

141. GRETA considers that the Dutch authorities should provide practical guidance on data protection to NGOs and professionals likely to encounter victims of THB in order to avoid breaches of data protection legislation and ensure that all presumed victims of THB are properly reported and provided with protection and assistance.

142. As stated in GRETA's previous reports, the National Rapporteur receives anonymised data on presumed victims of THB from CoMensha, as well as statistics on residence permits, recovery and reflection periods, criminal investigations, prosecutions and convictions from various authorities. The National Rapporteur analyses the data and reflects it in its reports and recommendations (see paragraph 24).

143. Statistics on the number of investigations, prosecutions and convictions in THB cases are often published with a considerable delay. The EMM, who collects data on THB investigations from the police, KMar, NLA, IND and OM, is unable to provide data for 2020-2022 and concerning data for 2019 lists "unknown" as the type of exploitation for almost one in five cases. In their comments on the draft report, the Dutch authorities stated that in the first quarter of every year the police and the OM publish data on the number of investigations, prosecutions and convictions of the previous year.

144. GRETA considers that the Dutch authorities should ensure that data on THB are made available in a timely manner to serve as an evidence base for future policy measures.

2. Measures to prevent and combat trafficking for the purpose of labour exploitation

145. In its second evaluation report, GRETA considered that the Dutch authorities should intensify their efforts to prevent trafficking for the purpose of labour exploitation, in particular by sensitising relevant officials, targeting high-risk sectors, and working closely with trade unions, civil society and the private sector.

146. As noted in GRETA's previous report, the Dutch Labour Inspectorate (NLA) is competent to detect and investigate human trafficking for the purpose of labour exploitation. The NLA's multi-year plans for 2019-2022¹¹² and 2023-2026¹¹³ mention combating THB as a priority. Since 2018 the NLA has received an additional 50 million Euro annually, including for action against THB. By the end of 2022 the NLA had the equivalent of about 1,500 full-time staff, including 74.5 full-time equivalents (FTE's) in the Directorate of Supervision ("*Toezicht*") specialising in the detection of labour exploitation, and 12 FTE's in the Directorate of Investigation ("*Opsporing*") to conduct criminal investigations into cases of THB for labour exploitation. The former follows up on reports of labour exploitation received from state bodies, NGOs and private individuals and can carry out unannounced inspections. The latter comprise investigators who are trained to conduct initial interviews with victims of THB and carry out criminal investigations under the supervision of the OM. If the investigation establishes sufficient evidence of THB, the criminal case is transferred to the OM for prosecution.

¹¹⁰ <https://www.comensha.nl/StippWebDLL/Resources/Handlers/DownloadBestand.ashx?ID=1000026676>

¹¹¹ <https://open.overheid.nl/repository/ronl-dd12795b-aaa8-4e23-b552-96ef285cb9ad/1/pdf/Handleiding%20Algemene%20verordening%20gegevensbescherming.pdf>

¹¹² <https://www.nlarbeidsinspectie.nl/binaries/nlarbeidsinspectie/documenten/jaarplannen/2018/11/15/meerjarenplan-2019-2022/Inspectie+SZW+Meerjarenplan+2019-2022.pdf>

¹¹³ <https://www.nlarbeidsinspectie.nl/binaries/nlarbeidsinspectie/documenten/jaarplannen/2022/11/25/meerjarenplan-2023-2026/Meerjarenplan+2023-2026+Nederlandse+Arbeidsinspectie.pdf>

147. There are between 500,000 and 750,000 migrant workers in the Netherlands.¹¹⁴ More than half of them come from Poland. Other countries of origin are Romania, Bulgaria, Hungary and Lithuania. Roughly nine in 10 migrant workers are employed on low-skilled jobs in logistics, food processing, agriculture and horticulture. Migrant workers from the EU, who do not stay longer than four months (within a period of six months), are required to register in the registry of non-residents.¹¹⁵ Although they need to apply in person at one of 19 registration counters across the country, they are not required to provide their contact details or address in the Netherlands, which makes it harder to enforce checks on migrant workers' working and living conditions. The "Roemer Commission" recommendations (see paragraph 157) called for a better registration of migrant workers, many of whom have no residence registration in the Netherlands. There is an important housing problem in the Netherlands, in particular in large cities which makes it difficult to implement these recommendations. The city of Rotterdam has a Task Force to implement the recommendations. The mayor of Amsterdam has sent a letter to JenV asking for improvements. The city of Amsterdam has also started a pilot whereby irregular migrants who are victims of crimes are free to report the crimes in a "safe space" in the city centre.

148. Between January 2019 and October 2022, the NLA registered 762 reports ("*meldingen*")¹¹⁶ of labour exploitation (132 in 2019, 160 in 2020, 210 in 2021 and 260 up to October 2022).¹¹⁷ Following an initial examination by NLA inspectors, 475 reports were dismissed because they did not constitute labour exploitation as defined in Section 273f of the CC and the OM's Directive on THB. The percentage of dismissed reports rose from 20% in 2019 to 83% in 2022. In the same period NLA detectives conducted initial interviews with 270 persons (73 in 2019, 52 in 2020, 86 in 2021 and 59 in 2022) and concluded that 159 of them (36 in 2019, 34 in 2020, 45 in 2021 and 44 in 2022) were presumed victims of THB based on the "slightest indication" criteria (see paragraph 179).¹¹⁸ Out of these presumed victims, 119 filed a formal complaint about THB. The NLA initiated 5 criminal investigations in 2019, 4 in 2020, 3 in 2021 and 1 in 2022, concerning a total of 19 victims of THB.¹¹⁹ This represents a sharp drop compared to previous years (19 criminal investigations in 2016, 16 in 2017, and 10 in 2018).

149. As already noted in paragraph 84, the significant decrease in the number of investigations, prosecutions and convictions for THB for the purpose of labour exploitation follows a more restrictive interpretation of Section 273f of the CC by the Netherlands Supreme Court. As noted in GRETA's second report, since cases of THB for labour exploitation are difficult to prove before the courts, the NLA has tried to deter employers who commit offences by charging them with criminal offences other than THB or by issuing administrative fines.¹²⁰ This approach may improve the chances of securing some form of punishment, but it leaves possible victims of THB without protection, assistance and compensation to which they would be entitled if there are charges of THB. The ILO has also warned about the prejudice to victims' rights when prosecuting THB as lower-level offences.¹²¹

¹¹⁴ The Central Statistics Bureau publishes statistical data on labour migration from EU and 5 EU candidate countries, see Migration Monitor 2020, https://www.cbs.nl/-/media/excel/2022/18/migrantenmonitor_2020.xlsx. The Union of Temporary Employment Agencies stated that there are even more than 750,000 labour migrants in the Netherlands, see [Arbeidsmigranten in Nederland: de cijfers - ABU](#)

¹¹⁵ Workers from the EU, who stay longer than four months within a period of six months, as well as workers from outside the EU, need to register in the basic register of personal data ("*basisregister personen*") in the Dutch municipality where they live.

¹¹⁶ One report may concern one or more potential victims.

¹¹⁷ NLA, [Rapportage Inspectie SZW](#), November 2021 (in Dutch) and NLA, [Stand van zaken Arbeidsuitbuiting en Ernstige benadeling](#), December 2022 (in Dutch).

¹¹⁸ The NLA [reported](#) different numbers to CoMensha: 46 in 2019, 38 in 2020 and 40 in 2021 (no data available for 2022).

¹¹⁹ No data was provided on the number of cases transferred by the NLA to the OM for prosecution and on the number of perpetrators indicted or ultimately convicted for THB.

¹²⁰ See GRETA's second report on the Netherlands, paragraphs 110 and 220.

¹²¹ ILO, [Access to protection and remedy for human trafficking victims for the purpose of labour exploitation in Belgium and the Netherlands](#), 2021, page 74.

150. The NLA applies the concept of “serious disadvantage” (“*ernstige benadeling*”) in cases which do not reach the threshold of THB. Between January 2019 and October 2022, the NLA registered 980 reports¹²² of “serious disadvantage” (193 in 2019, 272 in 2020, 253 in 2021 and 262 up to October 2022).¹²³ Following an initial review by NLA inspectors, one in four reports were dismissed as unsubstantiated. In approximately half of the remaining cases the NLA imposed administrative penalties (a warning and/or an administrative fine). The total amount of fines collected by the NLA in administrative proceedings in cases of “serious disadvantage” amounted to 807,000 Euro in 2020 and 941,000 Euro in 2021.

151. According to civil society organisations, the NLA and the OM prioritise the above-mentioned alternative approaches for policy reasons as they require less time and resources and their outcome is more predictable. Furthermore, when signals of potential labour exploitation are reported to the NLA by NGOs or care co-ordinators, it is difficult to convince the NLA to conduct an intake interview with the potential victim(s).

152. A report of the Netherlands Court of Audit issued in September 2021 reported that perpetrators of labour exploitation often go unpunished and victims are rarely provided with support.¹²⁴ According to the report, “the NLA is not achieving its own targets of punishing more offenders and helping more victims. The ministries concerned, JenV and SZW, have been working to improve the legislation for several years but have not yet had any visible success. Furthermore, the NLA does not keep a record of all the victims, as a result of which many of the estimated thousands of victims of labour exploitation in the Netherlands are not known.”¹²⁵ The main conclusion of the report is that despite the increase in the number of labour inspectors, law enforcement efforts remain insufficient. The increase in the number of detected cases did not lead to an increase in sanctions imposed by the NLA. The Court of Audit recommended the NLA to increase co-operation with municipalities and NGOs that provide assistance to victims of THB and improve reporting to policy makers.

153. According to the trade union FNV, which focuses on the situation in the transport sector, victims of trafficking do not get the protection they are entitled to under the Convention. Trade union representatives also noted that “the slightest indication” (see paragraph 179) is not used to identify victims of THB for labour exploitation, and there is a lack of capacity and knowledge in the OM on trafficking for labour exploitation. In addition, according to trade unions, the lack of enforcement in the Netherlands has become a “drain” for neighbouring countries. Belgian law enforcement agencies report that truck drivers are instructed to spend the night on Dutch car parks because driving and rest times are not enforced in the Netherlands.

154. GRETA is concerned that despite the increase in the number of labour inspectors specialising on THB and the resources given to the NLA, the latter has detected fewer victims of human trafficking and investigated less cases of labour exploitation. In 2020 the NLA reported 38 presumed victims of labour exploitation whilst the NGO Fairwork reported 378 presumed victims, and according to the Netherlands Court of Audit, the estimated number of victims of labour exploitation was at least 2,000 per year.

¹²² One report may concern one or more potential victims.

¹²³ See footnote 117.

¹²⁴ <https://www.rekenkamer.nl/binaries/rekenkamer/documenten/rapporten/2021/09/28/daders-vrijuit-slachtoffers-niet-geholpen/Rapport+Daders+vrijuit%2C+slachtoffers+niet+geholpen.pdf>

¹²⁵ The English summary of the report is available at [Offenders scot-free, victims not helped | Report | Netherlands Court of Audit \(rekenkamer.nl\)](https://www.rekenkamer.nl/binaries/rekenkamer/documenten/rapporten/2021/09/28/daders-vrijuit-slachtoffers-niet-geholpen/Rapport+Daders+vrijuit%2C+slachtoffers+niet+geholpen.pdf)

155. GRETA was informed that at least 50% of migrant workers in the Netherlands are employed by recruitment and temporary work agencies. There are more than 15,000 such agencies in the Netherlands. As noted in paragraph 72 of GRETA's second report, there is no system for licencing recruitment and temporary work agencies. GRETA was informed that these agencies also provide accommodation and medical insurance, making migrant workers even more dependent and therefore less willing to report labour exploitation. In 2019 the UN Human Rights Committee expressed concern about the growing number of migrant labour workers, who are coerced by employment agencies to work under exploitative conditions.¹²⁶

156. NGO and trade union representatives informed GRETA that there are not enough proactive inspections focusing on migrant workers posted by Dutch and/or foreign temporary work agencies who face an increased risk of THB. The NLA reportedly has no mandate to enter and check migrant workers' accommodation. According to the NLA and the AVIM the responsibility to check migrant workers' accommodation lies with the local level, but smaller municipalities, particularly in rural areas, often lack the capacity to conduct such checks and do not even know about the presence of migrant workers in their municipality.

157. During the Covid-19 pandemic large outbreaks of corona infections among migrant workers placed the spotlight on migrant workers' poor working and living conditions. In response the government set up the Booster Team Protection of Labour Migrants ("*Aanjaagteam Bescherming Arbeidsmigranten*"), referred to as the "Roemer Commission" after the name of the chair of the team, Emile Roemer, with the aim of reducing the risk of corona infection in the short term and to strengthen the protection of labour migrants in the longer term. In October 2020 it published its report "No second-class citizens."¹²⁷ The report recommended, among others, to introduce a licencing system for recruitment and temporary work agencies, enhance the registering of non-resident workers by adding contact details and current address, increase targeted inspections by the NLA, municipal authorities and in co-operation with officials in neighbouring countries,¹²⁸ improve the housing situation for migrant workers by setting minimum building standards, and separate employment contracts and rental contracts.

158. In 2021 the Dutch authorities launched a website, available in nine languages, which provides detailed information for labour migrants.¹²⁹ However, GRETA notes that the English version of the website does not contain information on THB.

159. In 2021 the Dutch government decided not to extend a simplified recruitment process to hire cooks from Asian countries, which had been criticised as high risk for THB.¹³⁰ In July 2022 the government announced that it would introduce a certification system for recruitment and temporary work agencies in 2025 at the earliest and that the NLA would get additional resources to monitor it.¹³¹ In December 2022 SZW published a progress report on the implementation of the recommendations of the Booster Team Protection of Labour Migrants.¹³²

¹²⁶ CCPR, [Concluding observations on the fifth periodic report of the Netherlands](#), CCPR/C/NLD/CO/5, paragraph 26.

¹²⁷ <https://open.overheid.nl/repository/ronl-404846f9-9f80-400f-90c3-0c9a8b0fd036/1/pdf/Geen%20tweederangsburgers-Interactief.pdf>

¹²⁸ GRETA was told thousands of labour migrants working in the Netherlands live in Germany.

¹²⁹ <http://www.workinnl.nl/>

¹³⁰ [Uitbuiting in de Aziatische horeca](#) (in Dutch) and [Voorlopig geen Aziatische koks meer naar Nederland vanwege misbruik en mensenhandel](#) (in Dutch)

¹³¹ <https://open.overheid.nl/repository/ronl-d411c78914a172d6234627378e3548d17a31bd81/1/pdf/kamerbrief-hoofdpijnen-verplichte-certificering-bij-ter-beschikking-stellen-van-arbeidskrachten.pdf>

¹³² <https://open.overheid.nl/repository/ronl-17987f607b6b04a7f9c8beedaa4a135d403a5d57/1/pdf/bijlage-1-jaarrapportagearbeidsmigranten.pdf> (in Dutch)

160. GRETA was informed of the case of some 40 Ukrainian workers who had arrived after the outbreak of the war in Ukraine through recruitment agencies to work in agriculture. They were reportedly not paid and did not have a registration number. According to the Dutch authorities, employers need to register Ukrainian workers at the Employee Insurance Agency at least two days before the first day of work and Ukrainian refugees cannot be self-employed (unless they have a work permit) because of the risk of exploitation.

161. According to the Dutch authorities, labour inspectors are regularly trained on THB. However, GRETA notes that in the survey conducted by the Netherlands Court of Audit 36% of labour inspectors stated that they were not trained to recognize signs of labour exploitation or serious disadvantage.¹³³ In their comments on the draft report, the authorities stated that since 2021 all labour inspectors had received four to five hours training on recognising and reporting signs of labour exploitation, and in 2023 an e-learning module "recognising signs of labour exploitation and serious disadvantage" was created.

162. The Dutch authorities have acknowledged that Section 273f of the CC needs to be revised. Amending the CC in this respect was explicitly included in the coalition agreement of the new government which took office in January 2022.¹³⁴ During the evaluation visit in October 2022 the authorities informed GRETA of proposals to introduce a new provision in the CC criminalising "serious disadvantages in labour settings". In December 2022, the State Secretary of JenV stated that a proposed amendment would be submitted to Parliament in February 2023, but this has been delayed while a public consultation process is taking place.¹³⁵ In their comments on the draft report, the authorities stated that in parallel to the amendment of the CC, different departments were looking into the question what kind of assistance and protection should be offered to victims of "serious disadvantages in labour settings". Such victims would be able to claim compensation from perpetrators during criminal proceedings. **GRETA would like to be kept updated of the revision of Section 273f of the CC.**

163. While commending the measures taken since the second evaluation to prevent and combat trafficking for the purpose of labour exploitation, in particular the increase in the resources of the NLA, **GRETA urges the Dutch authorities to intensify their efforts to prevent and combat THB for the purpose of labour exploitation, taking into account GRETA's Guidance Note on combating trafficking for labour exploitation¹³⁶ and CM/Rec(2022)21 on preventing and combating trafficking in human beings for the purpose of labour exploitation.¹³⁷ This should include steps to:**

- **ensure that cases of THB for labour exploitation are not treated as "serious disadvantage" cases;**
- **ensure that labour inspectors, law enforcement officers and other relevant actors increase their capacity to detect and identify victims of THB for the purpose of labour exploitation, paying particular attention to at-risk sectors, such as logistics, construction, food processing, agriculture and horticulture;**
- **take effective steps to regulate recruitment and temporary work agencies to strengthen prevention of THB and labour exploitation.**

¹³³ Netherlands Court of Audit, [Daders vrijuit, slachtoffers niet geholpen](#) , page 37.

¹³⁴ VVD, D66, CDA & Christenunie, [Omzien naar elkaar, vooruitkijken naar de toekomst](#) (in Dutch), December 2021, page

22.

¹³⁵ <https://www.internetconsultatie.nl/mensenhandel/b1>.

¹³⁶ <https://rm.coe.int/guidance-note-on-preventing-and-combating-trafficking-in-human-beings-/1680a1060c>.

¹³⁷ Recommendation CM/Rec(2022)21 of the Committee of Ministers to member States on preventing and combating trafficking in human beings for the purpose of labour exploitation and Explanatory Memorandum, adopted by the Committee of Ministers on 27 September 2022 at the 1444th meeting of the Ministers' Deputies.

164. **Furthermore, GRETA considers that the Dutch authorities should:**

- **strengthen co-operation between labour inspectors, law enforcement officers, tax authorities, trade unions and other civil society actors, with a view to collecting evidence necessary for successfully investigating and prosecuting cases of THB for the purpose of labour exploitation;**
- **adopt additional measures to strengthen the protection of labour migrants in the Netherlands;**
- **continue to improve the training of labour inspectors on detecting and investigating trafficking for the purpose of labour exploitation, including on the constituent elements and specificities of the offence of human trafficking and the differences between it and offences under labour law.**

3. Measures to raise awareness of human trafficking and to discourage demand

165. In its second report, GRETA welcomed the awareness-raising measures undertaken in the Netherlands and considered that the Dutch authorities should continue to increase the level of general awareness and provide information on how to forward information on human trafficking to relevant institutions and help possible victims receive assistance.

166. GRETA was informed of various activities to raise awareness of THB and sensitise relevant professionals during the reporting period. Particular attention has been paid to health-care professionals. The Reporting Code for Domestic Violence and Child Abuse, which is intended to support professionals in identifying different forms of violence, and taking the appropriate follow-up steps, has been expanded to include special forms of violence, including human trafficking. The medical federation KNMG has collaborated on the development on a fact sheet of human trafficking to help medical professionals better recognise signs of human trafficking, including of forced organ removal. CoMensha works with FairWork – at the request of JenV and VWS – on projects to increase the knowledge of human trafficking among health-care professionals. Within the project “Improving knowledge on human trafficking among care providers”, CoMensha offers care providers different forms of support to increase their knowledge of THB and improve identification and referral of presumed victims. CoMensha has organised awareness and information sessions on THB at most of the 25 Safe Homes for all staff.¹³⁸ All Safe Homes have a human trafficking officer, many of whom participate in the national Safe Home consultation group for human trafficking officers. Awareness-raising meetings in the form of webinars have been provided for nurses, gynaecologists, general practitioners, doctors in training and other staff to increase their knowledge of THB. FairWork has also developed a toolkit, in collaboration with CoMensha, which includes a training design for general practitioners, a list of ‘safe questions’, a collection of practical examples of human trafficking, as well as guidance and fact sheets.

167. As noted in paragraph 13, there has been an increase in cases of trafficking of children for the purpose of criminal exploitation, and the use of internet and social media to recruit and exploit them. During the evaluation visit an official of the city of Rotterdam presented a new website called “Will you lend a hand” (“*Steek jij je hand uit*”) to raise awareness about THB and lower the barrier to report THB.¹³⁹ The website is a joint initiative of 25 municipalities in the Rotterdam region together with the police and OM. The website has a chatroom where children and adolescents can anonymously contact the NGO “Fier.” The NGO SHOP in The Hague has been implementing in the last three years an awareness-raising campaign on THB (including on risks of online recruitment) among young people, which involves visits to youth care institutions and schools, as well as sensitisation of school staff and other relevant professionals.

¹³⁸ [Veilig Thuis is there for everyone - Veilig Thuis](#)

¹³⁹ <https://www.steekjijjehanduit.nl/>

In Amsterdam, the NGO HVO Querido also provides awareness-raising on THB at schools, as well as to teachers, medical staff, social workers and municipal officials. Despite these welcome initiatives, GRETA notes that THB is not included in the learning objectives for students and there is no attention to it in teacher training programmes.

168. Prostitution is legal in the Netherlands, and the Dutch authorities have been taking various measures to ensure that victims of THB and children are not coerced into prostitution. In 2018, about 11 advertisement sites for sex workers joined forces and jointly drafted a Code of Conduct to prevent abuses in the industry and thus counteract the demand for services with victims of human trafficking. The Police, the OM and the National Rapporteur actively participated in the process. Reference has already been made in paragraph 28 to the Human Trafficking Field Lab (MFL) project, which met with the online platforms to evaluate the Code of Conduct in order to ensure better compliance.

169. In 2021 the government, together with CKM, worked on a package of measures to ensure that clients are aware of their role and responsibilities in relation to prostitution. It consists of three pillars: research into the nature and extent of client-offender behaviour; a communication campaign aimed at responsible client behaviour, by informing clients on signs of abuse and making punishable limits known; and a criminal law approach consisting of proposed amendments to the CC so they can more easily be prosecuted if they break the law.

170. As regards research, two studies into sentencing and the profile of perpetrators who pay for sex with children, were commissioned to the CKM and the WODC. Another study was conducted by the Netherlands Institute for the Study of Crime and Law Enforcement in 2021, focusing on clients' ability to recognise indications of exploitation. It surveyed 422 prostitution clients and showed that they were able to describe many indications of forced prostitution, but were not always willing or able to report them.¹⁴⁰

171. An extensive communication campaign into responsible client behaviour ran from 29 December 2021 to 31 January 2022, targeting men aged 18-65, with a focus on the age group 36-45, to raise awareness that it is punishable to buy sex from people who are victims of exploitation and children.

172. As noted in paragraph 16, on 1 January 2022, the Criminalisation on the Abuse of Prostitutes who are Victims of Human Trafficking Act came into force. Pursuant to Section 273g of the CC the person who performs sexual acts with another person, while knowing or having serious reasons to suspect that this other person, as a victim of human trafficking, makes him/herself available to perform sexual acts with a third person in exchange for payment, can be punished with imprisonment of up to four years (or six years if the victim is a child). Signals that customers should look out for include indications of (severe) mistreatment, extreme behavioural characteristics (such as expressions of fear, aversion, or sadness), if the victim shows signs that he or she is being coerced or violently treated, and using their sexual services in deserted (industrial) areas. The impact of the new provision will be evaluated. According to the Dutch authorities, a criminal case opened under Section 273g of the CC, involving one suspect, is currently pending.

173. GRETA was informed of legislative proposal which regulates prostitution and other forms of sex work in order to prevent or reduce abuses in the sex industry. Pursuant to this proposal, persons engaged in prostitution must meet certain conditions, such as be at least 21 years old, be self-reliant, and be adequately informed about the risks of prostitution, their rights and obligations. A license is required to engage in sex work or possess a sex business.

174. **GRETA considers that the Dutch authorities should adopt a more systematic approach to preventing trafficking in children and include the risks of THB, including online, in the learning objectives for students and teacher training programmes.**

¹⁴⁰<https://nscr.nl/signalen-gedwongen-prostitutie-en-meldingsbereidheid-van-klanten/>

175. **GRETA also considers that the Dutch authorities should continue making efforts to discourage demand for the services of trafficked persons, by adopting legislative, administrative, educational, social and cultural measures to discourage demand that fosters all forms of exploitation that leads to trafficking, in partnership with civil society, trade unions and the private sector.**

176. **Further, GRETA invites the Dutch authorities to examine establishing as a criminal offence the use of services of victims of trafficking, with the knowledge that the persons concerned are victims, for all forms of exploitation, as provided for in Article 19 of the Convention.**

4. Identification of victims of trafficking

177. In its second evaluation report, GRETA considered that the Dutch authorities should make further efforts to ensure that all victims of trafficking are identified as such, including by de-linking identification of victims of THB from the prospect of prosecution, ensuring that the “slightest indication” criterion for identifying victims of THB is applied consistently by all authorities, formally recognising the role of specialised NGOs in the decision making process leading to identification, and separating the identification of victims of THB from the investigation of irregular migration.

178. The identification of victims of THB remains the exclusive responsibility of law enforcement agencies, namely AVIM, KMar, NLA and OM. The pilot project to develop a model of multidisciplinary identification of victims of THB, which was described in GRETA’s second evaluation report, was not extended, despite being positively evaluated.¹⁴¹ According to the Dutch authorities, lessons from the pilot have been implemented by both the IND and the Violent Offences Compensation Fund. The latter has drawn up a framework to assess the plausibility of the victimisation of human trafficking, and in October 2021 the IND published an assessment framework to check the plausibility of a presumed trafficking victim’s story.

179. All persons for which there exists the “slightest indication” that they might be victims of THB are registered as presumed victims.¹⁴² According to the Dutch authorities, the prospects of investigation and prosecution do not affect the law enforcement officers’ assessment of the existence of the “slightest indication” during the initial interview with the victim. However, according to anti-trafficking NGOs and the National Rapporteur, in practice, a higher threshold is applied by various officials, in particular in cases of THB for the purpose of labour exploitation. GRETA has already raised this issue during its previous evaluations, and has recommended that the Dutch authorities ensure that, in practice, the identification of victims is not linked to the prospects of investigation and prosecution, through the development of an NRM which involves civil society and independent experts in the identification process.¹⁴³ GRETA notes with concern that the Dutch authorities have not continued their efforts in this respect, despite the above-mentioned pilot project.

180. GRETA notes that the average annual number of presumed victims of THB decreased from 1,289 per year in the period 2013-2017, to 979 in the period 2018-2021. According to the data collected by CoMensha, the number of presumed victims detected by the police has been decreasing (e.g. 953 in 2019, compared to 307 in 2021), as well as those detected by KMar (86 in 2018, compared to 16 in 2021), whereas there have been more presumed victims detected by the NGO Fairwork and care co-ordinators. In its second evaluation report, GRETA noted that the fact that the AVIM became responsible for investigating both human trafficking and irregular migration could be seen as a reason for the decrease in the number of presumed victims of THB.¹⁴⁴ A foreign national in an irregular situation faces a real dilemma, knowing that testifying to the AVIM about THB could result in being detained and treated as an

¹⁴¹ An English summary of the evaluation can be found [here](#).

¹⁴² GRETA’s second report on the Netherlands, paragraph 109.

¹⁴³ GRETA’s first report on the Netherlands, paragraph 151; GRETA’s second report on the Netherlands, paragraph 118.

¹⁴⁴ GRETA’s second report on the Netherlands, paragraph 116.

irregular migrant, if the evidence provided is not sufficient to convince the AVIM officer that a THB offence was committed.

181. According to NGOs and care co-ordinators, law enforcement agencies are expected to be able to assess whether a potential victim is incapable of explaining their situation (due to traumatising or mental disability), but they lack the expertise and time to perform such an assessment, which may lead to non-recognition of victimhood. Victims are expected to be able to articulate during the initial interview why they are victims of THB, without taking into account the impact of cultural differences (e.g. they might be used to poor working conditions and lack of agency vis-à-vis employers). The NLA does not always proactively seek to establish vulnerabilities and possible victimisation (e.g. in the case of illegal employment, undocumented workers are apparently not questioned as if they could be victims).

182. The legal framework concerning the identification of victims of THB among asylum seekers has not changed significantly since GRETA's second report.¹⁴⁵ The IND is responsible for implementing the Human Trafficking Residence Scheme. When IND staff detect indicators of THB in the asylum process, they report them to the police. The Central Agency for the Reception of Asylum Seekers (COA) is responsible for the reception of asylum seekers and the Repatriation and Departure Service (DT&V) is responsible for their repatriation and return. According to NGOs, presumed victims of THB prefer to register as asylum seekers because the prospect of obtaining a residence permit is higher than as victims of THB.

183. There are no statistics available on the number of persons granted asylum on the grounds of being victims of THB. In 2022 the authorities were challenged by the sharp increase in the number of newly arrived asylum seekers.¹⁴⁶ The IND reported that in 2022, 47,991 persons applied for asylum, compared to 36,620 in 2021.¹⁴⁷ After being registered at the central reception centre in the town of Ter Apel, asylum seekers are transferred to other facilities, including two cruise ships with a capacity of 1,000 each. Due to the increased number of arrivals, it took from six months to one year before the first asylum application interview. Immigration officials met by GRETA during the visit acknowledged that they lacked the capacity to detect vulnerable persons and victims of THB among asylum seekers. GRETA is concerned that the procedure for identifying victims of THB among asylum seekers in the Netherlands is ineffective and, as a result, asylum seekers who are victims of THB are not transferred to specialised accommodation for victims of THB (COSM).

184. As regards the application of the Dublin Regulation to victims of trafficking, following the amendment of the Aliens Circular in 2019, presumed victims of THB who claim asylum in the Netherlands are sent to the EU country where they first applied for asylum, without being given the B8/3 residence permit or the three-month recovery and reflection period, unless the OM considers their presence necessary for the criminal case. The police and the prosecution have four weeks in which to decide whether or not to investigate the reported THB (see also paragraph 208). The decision is reportedly taken as a matter of days, even in cases where the exploitation has taken place in the Netherlands. This has led to forced transfers of victims of THB (referred to as "warm transfers"), without guarantees that they will be well-received in the first country of asylum. GRETA notes that Article 17.1 of the Dublin Regulation III permits States to unilaterally take responsibility for the determination of an asylum claim, even where the objective responsibility criteria allow for a request to be submitted to another Member State of the EU. GRETA stresses the obligation to identify victims of trafficking among asylum seekers who are subject to the Dublin Regulation procedure, in order to avoid any risk of reprisals from traffickers or re-trafficking, and to provide them with a recovery and reflection period and assistance, in accordance with Articles 12 and 13 of the Convention.

¹⁴⁵ GRETA's second report on the Netherlands, paragraphs 112 and 113. Amendments to the Aliens Circular concerning the reflection and recovery period are discussed in paragraphs 206 and 208.

¹⁴⁶ See [letter](#) of the CoE Commissioner for Human Rights, 26 August 2022, and the [reply](#) by the State Secretary of JenV, 1 September 2022.

¹⁴⁷ <https://ind.nl/en/news/influx-of-asylum-seekers-in-december-2022>

185. **GRETA urges the Dutch authorities to make further efforts to ensure that all victims of trafficking are identified as such and can benefit from the assistance and protection measures contained in the Convention, in particular by:**

- ensuring that, in practice, the identification of victims of THB, upon which assistance measures depend, is not linked to the prospects of the investigation and prosecution;
- ensuring that the “slightest indication” criterion for identifying victims of trafficking is applied consistently by the police, KMar, NLA and OM, regardless of the purpose of exploitation, and that the recovery and reflection period is provided accordingly;
- strengthening multi-agency involvement in the identification of victims of trafficking by formally recognising the role of specialised NGOs in the decision-making process leading to identification;
- ensuring that there is a separation between immigration enforcement functions and labour inspectorate roles, and that labour inspectors prioritise the detection of persons working in irregular situations who are vulnerable to THB;
- paying increased attention to the identification of victims of trafficking among asylum seekers and migrants, including by recruiting or otherwise engaging a sufficient number of trained staff, including interpreters and cultural mediators, to more effectively interact with migrants and asylum seekers. In this respect, reference is made to GRETA’s Guidance note on the entitlement of victims of trafficking, and persons at risk of being trafficked, to international protection.¹⁴⁸

186. Furthermore, GRETA considers that the Dutch authorities should continue and strengthen their efforts to proactively identify victims of trafficking by reinforcing the capacity and training of all professionals who might come into contact with victims, including at the municipal level.

5. Assistance to victims of trafficking

187. In its second evaluation report, GRETA urged the Dutch authorities to ensure that assistance to foreign victims of THB is not linked to investigations or prosecutions being pursued. GRETA also considered that the authorities should ensure that minimum standards and sufficient funding are guaranteed when assistance to victims of THB is provided by municipalities and NGOs.

188. Dutch and EU victims, as well as third-country nationals with legal residence in the Netherlands, have access to all forms of support and assistance, regardless of whether they co-operate with the investigation and prosecution. Third-country national victims without legal residence are entitled to assistance during the reflection and recovery period of three months, independent of their willingness to co-operate with the investigation. Beyond the recovery and reflection period, third-country national victims can continue to receive assistance on condition that human trafficking is reported to the police and a criminal investigation against the perpetrator initiated. Victims who refuse to co-operate with the investigation can apply for a temporary residence permit on humanitarian grounds and continue to receive assistance, but NGO representatives stated that in practice the authorities rarely grant such a permit (see paragraph 212). Thus the assistance to most third-country victims of THB beyond the recovery and reflection period remains linked to a criminal investigation being pursued.

189. As described in GRETA’s previous reports, assistance to victims of THB is provided by an extensive network of organisations, including specialised shelters for victims of THB, women’s shelters and youth care establishments. Assistance includes accommodation, psychological and medical assistance, as well as administrative and legal support. Third-country national adult victims are accommodated in category-oriented shelters for victims of THB (COSM) during the recovery and reflection period, which are funded

¹⁴⁸

<https://rm.coe.int/guidance-note-on-the-entitlement-of-victims-of-trafficking-and-persons/16809ebf44>

by JenV. There are currently 40 places in the three existing COSMs, two for women in Amsterdam (see paragraph 191) and Rotterdam, and one for men in Assen (see paragraph 192). GRETA notes that the number of places in the COSMs has decreased over the years (70 beds in 2012, 50 places in 2018).¹⁴⁹ Third-country national victims may occasionally be accommodated for a short time in other types of shelters while waiting for a place in a COSM.

190. Assistance to adult Dutch and EU victims is organised and financed by the municipalities. GRETA was informed that the decentralisation of social care had led to budget cuts, in particular as regards youth care, creating bottlenecks. Victims of THB are usually accommodated in shelters providing assistance to persons in need. Shelters in bigger municipal sectors have specialised units for victims of THB. Six shelters provide places to male victims of THB. Since 2019, 36 places have been created in six shelters for victims of THB with multiple problems (OMM, "*Opvang voor Slachtoffers Mensenhandel met Multiproblematiek*").¹⁵⁰ In 2022 one shelter started to offer a small number of places for up to 14 days to victims of labour exploitation classified by the NLA as "serious disadvantage" (see paragraph 150). In 2022 six victims of "serious disadvantage" were accommodated in the shelter.

191. During the third evaluation, GRETA visited two of the COSM shelters, "HVO Querido" in Amsterdam, and "Yadeborg" near Assen. The shelter run by "HVO Querido" in Amsterdam had a total of 57 beds: 10 for labour exploitation cases (funded by SZW), two for Dutch girls victims of sexual exploitation (funded by the Amsterdam municipality), and the rest for victims of sexual exploitation, of which 17 were COSM beds paid by JenV and 16 were paid by the Amsterdam municipality. The different accounting for each type of bed results in complex administrative procedures. Victims under the COSM system can stay up to three months, after which the JenV stops paying and if they receive a residence permit, the municipality should pay, however, there are not enough places. Dutch and EU-national victims can stay at the shelter for longer periods. About 200 victims are assisted every year. Victims are offered language classes, yoga, self-defence, life skills and vocational training (e.g. cooking). Some of them work in the canteen of another NGO, others in care for the elderly. The shelter provides very good material conditions, with attractive common areas and living units comprising a small kitchen and a bedroom.

192. "Yadeborg" has 10 COSM beds for male victims of THB. The shelter is located on the outskirts of a village, 10 km from Assen. In the past few years, the occupancy rate was only around 50%. Each resident has his own room and has to sign the house rules. Staff prepare an individual action plan with each resident, which includes empowerment and language training, but due to the shelter's isolated location integration and interaction is rather limited. An interpreter can be connected by phone, but all staff and most residents speak English.

193. The shelter run by the NGO "SHOP" (expertise centre on sex workers and THB)¹⁵¹ in The Hague has 18 places for women who are victims of THB and sex workers who need assistance. Staff presence was ensured around the clock and there were three care co-ordinators for victims of THB. Most of the residents were Dutch women, some of whom had stayed at the shelter for up to three years. The police also occasionally brought third-country nationals, e.g. Nigerian women, for one or two nights before transferring them to a COSM. Residents were provided with empowerment and social skills training, language classes, as well as the possibility to attend school in the community. The shelter also comprised three flats for semi-independent living. The funding for the running of the shelter was provided by The Hague municipality and JenV. GRETA was impressed by the warm and caring environment and the dedicated staff.

¹⁴⁹ Until 2018, two COSM shelters had 27 places each for women, and the third shelter had 16 places for men.

¹⁵⁰ OMM was positively evaluated in a 2022 [study](#) ordered by VWS.

¹⁵¹ <https://www.shop-den Haag.nl/>

194. Anti-trafficking NGOs met by GRETA expressed concern that there are not enough places in the shelters and some facilities have long waiting lists, in particular COSM. There are still not enough places for male victims of THB in some regions, and no places for couples or families with children. Shelters struggle to find and retain staff. Since providing assistance to victims of THB has been transferred to the municipalities, the level of services provided depends on the financial priorities each municipality has set. While welcoming the creation of the OMM, GRETA is concerned that there are still not enough places for victims with multiple problems (drug or alcohol addiction, mental disability).

195. While welcoming the availability of shelters for victims of THB with specific needs, GRETA considers that the Dutch authorities should further develop the assistance measures offered to victims of THB, and in particular:

- **ensure that access to assistance for victims of THB is not made conditional on their willingness to co-operate in the investigation or prosecution;**
- **taking into account the increasing number of male victims and victims with multiple problems, guarantee a sufficient number of accommodation places for such victims;**
- **ensure that shelters have sufficient human and financial resources to adapt their capacity to demand, regardless of which municipality is responsible for arranging the assistance measures.**

6. Identification of, and assistance to, child victims of trafficking

196. In its second evaluation report, GRETA considered that the Dutch authorities should make further efforts to improve the identification of, and the assistance to, child victims of THB by developing an NRM for child victims of THB, ensuring that relevant actors take a proactive approach, increasing their outreach work to identify child victims, and providing further training to stakeholders and guidance on the identification of child victims of THB.

197. The number of presumed child victims of THB in the Netherlands has continued to decrease. Compared to the previous reporting period, the percentage of child victims in the total number of identified victims of THB dropped from 20% to 10%. The Dutch authorities acknowledge that this decrease does not reflect the real situation. The National Rapporteur has expressed concern about the failure to identify child victims of THB, including amongst Dutch children.¹⁵² As stated in paragraph 13, victims of forced criminality, in particular children, often remain undetected.

198. The assistance to child victims of THB has not changed since GRETA's second report. Dutch and EU children are provided with assistance from youth care institutions, some of which have places reserved for victims of THB, including victims of "pimp boyfriends" and children with mild intellectual disabilities. The National Rapporteur expressed concern that child victims of sexual exploitation are sometimes placed in closed institutions due to the lack of places in ambulatory youth care.¹⁵³ According to the National Rapporteur, the Youth Care Inspectorate still lacks the resources to effectively monitor the quality of care in the more than 6,500 youth care providers across the Netherlands.

199. There are two dedicated shelters with special arrangements for victims of "pimp boyfriends", run by Fier and Sterk Huis, respectively financed by the municipalities of Leeuwarden and Tilburg. Child victims are also sent to these specialised shelters by other municipalities, which pay for the services provided.

¹⁵² [Victim Monitor 2016-2020](#), page 38.

¹⁵³ [Victim Monitor 2016-2020](#), page 69.

200. GRETA visited the shelter "Sterk Huis" in Goirle, near Tilburg. It was launched in 2018 following a merger of the domestic violence shelter and youth care institutions and has four places of girls victims of THB for the purpose of sexual exploitation by "pimp boyfriends". GRETA was informed that the girls are usually aged 16-17, some 80% of them are recruited online, and many have drug addictions. They are requested to hand over their mobile phones to prevent contact with the perpetrators. Unaccompanied children are also taken care of by "Sterk Huis". There were 200 of them at the time of the visit, and their number has been growing. Younger unaccompanied children are accommodated in small living units, with up to six children per unit, and with staff present around the clock. Young adults (18-21 years) live in independent accommodation and are visited by social workers. At "Sterk Huis" the transitioning into adulthood has been made easier since 2022 due to the provision of social assistance up to the age of 21.

201. As noted in GRETA's second report, unaccompanied asylum-seeking children are first sent to the central reception centre in Ter Apel for registration. Subsequently, they are distributed among foster families, small reception centres or, if they are considered vulnerable to THB, to a protected shelter. However, GRETA was informed that children are frequently transferred between care providers, complicating the assistance process. According to the Dutch authorities, in 2022 unaccompanied children were transferred on average 1,2 times between reception facilities under the authority of the COA, but no information was provided on the amount of transfers to/from care providers not under the authority of the COA. The NIDOS foundation, which is responsible for providing legal guardians, reported a considerable increase in the number of children placed under guardianship since mid-2021, causing delays in appointing guardians and finding appropriate accommodation for unaccompanied children.¹⁵⁴ GRETA was informed that each legal guardian is responsible for 25 to 30 children.

202. According to data from COA and NIDOS, more than 2,570 unaccompanied migrant children disappeared from institutional care in the period 2010-2019. Many of these children are from Vietnam and recent research showed that they were detected as victims of THB in the United Kingdom.¹⁵⁵ GRETA was informed that some 200 unaccompanied children disappeared from institutional care in 2021. GRETA notes with concern that the measures taken by the Dutch authorities to address the problem of unaccompanied migrant children disappearing from institutional care have had little effect.¹⁵⁶

203. Following an amendment to section B8/3.1 of the Aliens Circular in October 2018, child victims of THB can be granted a temporary residence permit on temporary humanitarian grounds (B8/3) (see paragraph 209). In February 2022 the UN Committee on the Rights of the Child expressed concern that child victims of THB who do not co-operate with the authorities rarely receive such a residence permit.¹⁵⁷

¹⁵⁴ https://www.nidos.nl/wp-content/uploads/2022/06/Jaarbericht_Nidos_2021DEF130622.pdf

¹⁵⁵ [Victim Monitor 2016-2020](#), pages 52 and 53.

¹⁵⁶ See GRETA's second report on the Netherlands, paragraph 149.

¹⁵⁷ CRC, [Concluding observations on the combined fifth and sixth periodic reports of the Netherlands](#), CRC/C/NLD/CO/5-6, paragraph 39.

204. **GRETA urges the Dutch authorities to:**

- **develop a National Referral Mechanism for child victims of THB which takes into account the special circumstances and needs of child victims, involves child specialists and ensures that the best interests of the child are the primary consideration in all proceedings relating to child victims of THB and children at risk, including unaccompanied migrant children;**
- **ensure that relevant stakeholders (police, prosecutors, immigration officials, municipal authorities, youth care workers and teachers) take a proactive approach and increase their outreach work to identify child victims of THB, paying increased attention to online recruitment and exploitation;**
- **continue to take actions for reducing the risk of unaccompanied migrant children going missing from institutional care and set up a system for tracking re-trafficked children, in order to understand the extent of this issue and react adequately.**

205. **GRETA also considers that the Dutch authorities should continue their efforts to improve the identification of, and assistance to, child victims of trafficking, in particular by:**

- **providing further training and tools to all relevant professionals on the identification of child victims of THB for different forms of exploitation;**
- **ensuring that access to a residence permit is not made conditional on the child victim's willingness to co-operate in the investigation or prosecution.**

7. Recovery and reflection period and residence permits

206. In its second evaluation report, GRETA urged the Dutch authorities to ensure that all possible foreign victims of trafficking, including EU citizens, are consistently provided with a recovery and reflection period. In reply to GRETA's recommendation, section B8/3.1 of the Aliens Circular was amended in October 2018, codifying the possibility for EU citizens to obtain a recovery and reflection period.

207. In 2018, 168 victims of THB were granted a recovery and reflection period, in 2019, 148 victims, and in 2020, 71 victims. Pursuant to the Aliens Circular, victims of THB are granted a temporary residence permit on temporary humanitarian grounds ("B8/3") for the duration of the recovery and reflection period of three months. The refusal to grant a recovery and reflection period cannot be appealed. Thereafter they can be granted a temporary residence permit of one year, which is renewable. This decision can be appealed.

208. In August 2019, section B8/3.1 of the Aliens Circular was amended by adding the so-called "warm transfer" ("*warm vertrek*") rule. It grants the IND the power to postpone the decision following an application for a residence permit based on B8/3 to victims of THB who fall under the Dublin Regulations (i.e. third-country nationals who arrived on Dutch soil after having claimed asylum in another EU country), unless the OM confirmed that the presence of the foreign national is deemed necessary in the interests of investigating and prosecuting human trafficking. During this period the person is not granted a reflection and recovery period and can be transferred to the EU country of first entry. GRETA is unaware of any cases in which the OM has requested this exception. On 20 October 2022 the Court of Justice of the European Union ruled that the transfer and the denial of the recovery and reflection period violated Article 6(2) of EU Directive 2004/81 on residence permits issued to third-country nationals who are victims of trafficking (prohibition to enforce expulsion order during the recovery and reflection period).¹⁵⁸ Since the judgment of the Court of Justice eight presumed victims of THB falling under the Dublin Regulations have been granted a reflection and recovery period. On 15 May 2023 JenV informed Parliament that pursuant to a policy change presumed victims of THB falling under the Dublin Regulations would be

¹⁵⁸

<https://eur-lex.europa.eu/legal-content/NL/TXT/HTML/?uri=CELEX:62021CJ0066&from=en>

granted a reflection and recovery period limited to 30 days and the Aliens Circular would be amended accordingly. The authorities indicated that they would closely monitor the development of the number of presumed victims falling under the Dublin Regulation who will be granted a reflection and recovery period.

209. Victims of trafficking who are also asylum seekers cannot make use of the recovery and reflection period and the related specialised facilities. This is not considered necessary because asylum seekers have a lawful residence; however, as a result, they do not have access to specialised assistance.

210. Temporary residence permits on temporary humanitarian grounds (B8/3) are granted to victims of THB who co-operate with the authorities, to victims of THB who are unable to co-operate with the authorities because of a serious threat, a medical or psychological condition, and to child victims of THB (see paragraph 202). GRETA was informed that victims sometimes had to wait too long to obtain a B8/3 permit and have access to services.

211. Trafficking victims who are unable to co-operate with the authorities and who have been granted a one-year B8/3 permit can subsequently apply for a temporary residence permit on non-temporary humanitarian grounds in accordance with section B9/10 of the Aliens Circular. The whole procedure is referred to as the "harrowing path" ("*schrijnend pad*") procedure. According to NGOs, while this procedure could allow recognition of victimhood without the involvement of the police, in practice the plausibility assessment of victimhood by the IND is strongly guided by the outcome of the police investigation and does not sufficiently take into account the effects that trauma can have on reporting. Further, victims of THB who have co-operated with the authorities and who have been granted a one-year B8/3 permit can later apply for temporary residence permits on non-temporary humanitarian grounds under Section B9/12 of the Aliens Circular.

212. CoMensha and the National Rapporteur¹⁵⁹ noted that the B9/10 procedure is rarely applied in practice. In 2018, 319 temporary residence permits on temporary humanitarian grounds (B8/3) and 41 temporary residence permits on non-temporary humanitarian grounds (both B9/10 and B9/12) were granted to victims of THB. In 2019, 407 B8/3 permits and 61 B9 permits were granted to victims of THB. In 2020, 174 B8/3 permits and 31 B9 permits were granted to victims of THB. The authorities stated that it is impossible to separate B9/10 and B9/12 in the statistics. Accordingly, it is difficult for GRETA to evaluate if the Dutch authorities made efforts to ensure that victims of trafficking who are unable to co-operate with authorities can benefit in practice from the right to obtain a residence permit.

213. While welcoming the 2018 amendment to the Aliens Circular and the steps taken to implement the judgment of the Court of Justice of the EU, **GRETA once again urges the Dutch authorities to ensure, in compliance with the obligations under Article 13 of the Convention, that all possible foreign victims of trafficking, including those falling under the Dublin Regulations, are offered a recovery and reflection period and are able to fully benefit from all the measures of protection and assistance envisaged in Article 12, paragraphs 1 and 2, of the Convention during this period.**

214. **Furthermore, GRETA considers that the authorities should ensure that victims of human trafficking can fully benefit in practice from the right under Dutch law to obtain a renewable residence permit when they are unable to co-operate with the authorities, and raise awareness of this possibility among relevant professionals and victims.**

¹⁵⁹ [Victim Monitor 2016-2020](#), pages 51 and 52.

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

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

Topics related to the third evaluation round of the Convention

Right to information

- GRETA welcomes the availability of information materials in different languages for victims of trafficking and considers that the Dutch authorities should continue to make efforts to ensure that all presumed victims of trafficking are given information in a proactive manner, as soon as they come into contact with a competent authority. The information should take into account victim's age, maturity, intellectual and emotional capacity, literacy and any mental, physical, or other disability which may affect the ability to understand. The information should be provided irrespective of the victim's capacity or willingness to co-operate in criminal proceedings and include the right to a recovery and reflection period, the services and assistance measures available, state compensation procedure and other relevant civil and administrative remedies and procedures (paragraph 44).
- GRETA also considers that the Dutch authorities should take further measures to increase the number of qualified interpreters who are sensitised to the issue of human trafficking and the vulnerabilities of victims, and to ensure their timely availability (paragraph 45).

Legal assistance and free legal aid

- GRETA welcomes the availability of free legal assistance and legal aid for victims of trafficking in the criminal proceedings against perpetrators, and considers that the Dutch authorities should take additional measures to ensure that all presumed victims of trafficking have effective access to free legal assistance and legal aid in related fields, such as civil, labour and immigration law (paragraph 55).

Psychological assistance

- GRETA considers that the Dutch authorities should guarantee timely access of victims of trafficking to psychological assistance and ensure that it is provided for as long as their individual situation requires, in order to help them overcome the trauma they have been through, and achieve a sustained recovery and social inclusion (paragraph 59).

Access to work, vocational training and education

- GRETA considers that the Dutch authorities should strengthen effective access to the labour market for victims of THB and their economic and social inclusion through the provision of vocational training and job placement, raising awareness amongst employers, and the promotion of micro-businesses, social enterprises and public-private partnerships, including through state supported employment programmes, with a view to creating appropriate work opportunities for victims of trafficking (paragraph 63).

Compensation

- GRETA welcomes the attention paid to victim compensation in the Netherlands and considers that the authorities should make efforts to guarantee effective access to compensation for victims of human trafficking, in line with Article 15 (4) of the Convention, including by:
 - ensuring that victims of trafficking for the purpose of labour exploitation can obtain compensation from the perpetrator as part of criminal proceedings, and allowing all victims of trafficking to join the criminal proceedings against the perpetrator and claim compensation, regardless of the number of victims in the case;
 - enabling all victims of trafficking to effectively exercise their right to compensation in civil and labour law proceedings (paragraph 76).

Investigations, prosecutions, sanctions and measures

- GRETA urges the Dutch authorities to strengthen their efforts to investigate and prosecute cases of human trafficking for the purpose of labour exploitation (see also paragraph 163) (paragraph 95).
- GRETA considers that the Dutch authorities should take additional measures to strengthen the criminal justice response to THB, including by:
 - ensuring that trafficking offences are classified as such every time the circumstances of a case allow this; the concept of "abuse of a position of vulnerability", which is part of the definition of human trafficking, should be properly applied in practice;
 - developing the legal framework to enable the use of technological developments to gather material, documental, financial and digital evidence;
 - ensuring that the length of court proceedings in cases of trafficking of human beings is reasonable, in line with the case-law of the European Court of Human Rights (Article 6, paragraph 1 of the ECHR) and the standards set by the European Commission for the Efficiency of Justice (CEPEJ) (paragraph 96).

Non-punishment provision

- GRETA once again considers that the Dutch authorities should take further steps to ensure consistent application of the principle of non-punishment of victims of THB for their involvement in unlawful activities, to the extent that they were compelled to do so. Consideration should also be given to adopting a specific legal provision on the non-punishment of victims of trafficking for their involvement in unlawful activities, to the extent that they were compelled to do so, as part of the planned revision of Section 273f of the CC (paragraph 103).

Protection of victims and witnesses

- GRETA invites the Dutch authorities to make full use of all measures available in law to protect victims and witnesses of THB in order to prevent retaliation and intimidation during the investigation and/or after the court proceedings (paragraph 109).

Specialised authorities and co-ordinating bodies

- GRETA welcomes the existence of entities and professionals specialised to deal with THB cases and the training provided to them, and invites the Dutch authorities to continue building the capacity and specialisation of police officers, prosecutors and judges in the area of THB (paragraph 118).

International co-operation

- GRETA welcomes the efforts made by the Netherlands in developing international co-operation in combating THB, including through participation in JITs and engagement in EMPACT, and invites the Dutch authorities to continue developing multilateral and bilateral co-operation in combating THB (paragraph 124).

Role of businesses

- GRETA considers that the Dutch authorities should further strengthen engagement with the private sector, in line with the UN Guiding Principles on Business and Human Rights and Council of Europe Committee of Ministers Recommendation CM/Rec(2016)3 on human rights and business and CM/Rec(2022)21 on preventing and combating trafficking in human beings for the purpose of labour exploitation, with a view to raising awareness of the role and responsibility of businesses in supporting the rehabilitation and recovery of victims, and facilitation access to remedies (paragraph 133);
- GRETA considers that the Dutch authorities should adopt legislation integrating the prevention of THB and labour exploitation in public procurement policies and promoting transparency in supply chains to enable scrutiny of companies' performance and prevent THB and labour exploitation (paragraph 134).

Follow-up topics specific to the Netherlands***Developments in the legal, institutional and strategic framework for action against trafficking in human beings***

- GRETA welcomes the Human Trafficking Field Lab project and invites the Dutch authorities to continue the project beyond 2023 (paragraph 20);
- GRETA welcomes the involvement of municipalities in action against THB and invites all municipalities to adopt policies to combat THB (paragraph 21);
- GRETA considers that the Dutch authorities should commission an independent evaluation of anti-trafficking national programmes as a tool for assessing the impact of the activities and for planning future policies and measures to combat THB (paragraph 26).

Data collection and data protection

- GRETA considers that the Dutch authorities should provide practical guidance on data protection to NGOs and professionals likely to encounter victims of THB in order to avoid breaches of data protection legislation and ensure that all presumed victims of THB are properly reported and provided with protection and assistance (paragraph 141);
- GRETA considers that the Dutch authorities should ensure that data on THB are made available in a timely manner to serve as an evidence base for future policy measures (paragraph 144).

Measures to prevent and combat trafficking for the purpose of labour exploitation

- GRETA urges the Dutch authorities to intensify their efforts to prevent and combat THB for the purpose of labour exploitation, taking into account GRETA's Guidance Note on combating trafficking for labour exploitation and CM/Rec(2022)21 on preventing and combating trafficking in human beings for the purpose of labour exploitation. This should include steps to:

- ensure that cases of THB for labour exploitation are not treated as “serious disadvantage” cases;
 - ensure that labour inspectors, law enforcement officers and other relevant actors increase their capacity to detect and identify victims of THB for the purpose of labour exploitation, paying particular attention to at-risk sectors, such as logistics, construction, food processing, agriculture and horticulture;
 - take effective steps to regulate recruitment and temporary work agencies to strengthen prevention of THB and labour exploitation (paragraph 163);
- GRETA considers that the Dutch authorities should:
- strengthen co-operation between labour inspectors, law enforcement officers, tax authorities, trade unions and other civil society actors, with a view to collecting evidence necessary for successfully investigating and prosecuting cases of THB for the purpose of labour exploitation;
 - adopt additional measures to strengthen the protection of labour migrants in the Netherlands;
 - continue to improve the training of labour inspectors on detecting and investigating trafficking for the purpose of labour exploitation, including on the constituent elements and specificities of the offence of human trafficking and the differences between it and offences under labour law (paragraph 164).

Measures to raise awareness of human trafficking and to discourage demand

- GRETA considers that the Dutch authorities should adopt a more systematic approach to preventing trafficking in children and include the risks of THB, including online, in the learning objectives for students and teacher training programmes ((paragraph 174);
- GRETA also considers that the Dutch authorities should continue making efforts to discourage demand for the services of trafficked persons, by adopting legislative, administrative, educational, social and cultural measures to discourage demand that fosters all forms of exploitation that leads to trafficking, in partnership with civil society, trade unions and the private sector (paragraph 175);
- GRETA invites the Dutch authorities to examine establishing as a criminal offence the use of services of victims of trafficking, with the knowledge that the persons concerned are victims, for all forms of exploitation, as provided for in Article 19 of the Convention (paragraph 176).

Identification of victims of trafficking

- GRETA urges the Dutch authorities to make further efforts to ensure that all victims of trafficking are identified as such and can benefit from the assistance and protection measures contained in the Convention, in particular by:
 - ensuring that, in practice, the identification of victims of THB, upon which assistance measures depend, is not linked to the prospects of the investigation and prosecution;
 - ensuring that the “slightest indication” criterion for identifying victims of trafficking is applied consistently by the police, KMar, NLA and OM, regardless of the purpose of exploitation, and that the recovery and reflection period is provided accordingly;
 - strengthening multi-agency involvement in the identification of victims of trafficking by formally recognising the role of specialised NGOs in the decision-making process leading to identification;

- ensuring that there is a separation between immigration enforcement functions and labour inspectorate roles, and that labour inspectors prioritise the detection of persons working in irregular situations who are vulnerable to THB;
 - paying increased attention to the identification of victims of trafficking among asylum seekers and migrants, including by recruiting or otherwise engaging a sufficient number of trained staff, including interpreters and cultural mediators, to more effectively interact with migrants and asylum seekers. In this respect, reference is made to GRETA's Guidance note on the entitlement of victims of trafficking, and persons at risk of being trafficked, to international protection (paragraph 185);
- GRETA considers that the Dutch authorities should continue and strengthen their efforts to proactively identify victims of trafficking by reinforcing the capacity and training of all professionals who might come into contact with victims, including at the municipal level (paragraph 186).

Assistance to victims

- While welcoming the availability of shelters for victims of THB with specific needs, GRETA considers that the Dutch authorities should further develop the assistance measures offered to victims of THB, and in particular:
- ensure that access to assistance for victims of THB is not made conditional on their willingness to co-operate in the investigation or prosecution;
 - taking into account the increasing number of male victims and victims with multiple problems, guarantee a sufficient number of accommodation places for such victims;
 - ensure that shelters have sufficient human and financial resources to adapt their capacity to demand, regardless of which municipality is responsible for arranging the assistance measures (paragraph 195).

Identification of, and assistance to, child victims of trafficking

- GRETA urges the Dutch authorities to:
- develop a National Referral Mechanism for child victims of THB which takes into account the special circumstances and needs of child victims, involves child specialists and ensures that the best interests of the child are the primary consideration in all proceedings relating to child victims of THB and children at risk, including unaccompanied migrant children;
 - ensure that relevant stakeholders (police, prosecutors, immigration officials, municipal authorities, youth care workers and teachers) take a proactive approach and increase their outreach work to identify child victims of THB, paying increased attention to online recruitment and exploitation;
 - continue to take actions for reducing the risk of unaccompanied migrant children going missing from institutional care and set up a system for tracking re-trafficked children, in order to understand the extent of this issue and react adequately (paragraph 204);
- GRETA considers that the Dutch authorities should continue their efforts to improve the identification of, and assistance to, child victims of trafficking, in particular by:
- providing further training and tools to all relevant professionals on the identification of child victims of THB for different forms of exploitation;
 - ensuring that access to a residence permit is not made conditional on the child victim's willingness to co-operate in the investigation or prosecution (paragraph 205).

Recovery and reflection period and residence permits

- GRETA once again urges the Dutch authorities to ensure, in compliance with the obligations under Article 13 of the Convention, that all possible foreign victims of trafficking, including those falling under the Dublin Regulations, are offered a recovery and reflection period and are able to fully benefit from all the measures of protection and assistance envisaged in Article 12, paragraphs 1 and 2, of the Convention during this period (paragraph 213);
- Furthermore, GRETA considers that the authorities should ensure that victims of human trafficking can fully benefit in practice from the right under Dutch law to obtain a renewable residence permit when they are unable to co-operate with the authorities, and raise awareness of this possibility among relevant professionals and victims (paragraph 214).

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

Public bodies

- Mr Eric van der Burg, State Secretary, Ministry of Justice and Security
- Ministry of the Justice and Security
- Ministry of Social Affairs and Employment
- Ministry of Foreign Affairs
- Ministry of Health, Welfare and Sports
- Ministry of Interior Affairs and Kingdom Relations
- Netherlands Labour Authority
- Police
- Royal Netherlands Marechaussee
- Financial Intelligence Unit
- National Information and Expertise Centre
- Regional Information and Expertise Centre for Rotterdam Region
- Violent Offences Compensation Fund
- Legal Aid Board
- Public Prosecution Service
- Court of Amsterdam
- Court of The Hague
- Parliament (*Tweede Kamer*)
- Office of the National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children
- Association of Netherlands Municipalities
- Municipal authorities of Amsterdam, Leeuwarden, Rotterdam and Tilburg.

Intergovernmental organisations

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

NGOs and other civil society organisations

- Centre against Child Trafficking and Human Trafficking (CKM)
- CoMensha
- FairWork
- Fier

-
- HVO Querido
 - Koraal
 - Lumens
 - Netherlands Red Cross
 - Netherlands Trade Union Federation (FNV)
 - Nidos Foundation
 - Salvation Army
 - SHOP
 - Sterk Huis
 - Yadeborg

Government's comments

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

GRETA engaged in a dialogue with the Dutch 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 Dutch authorities on 21 August 2023 and invited them to submit any final comments. The comments of the authorities, submitted on 20 October 2023, are reproduced hereafter.

Ministry of Justice and Security

> Return address Postbus 20301 2500 EH The Hague

Ms. Petya Nestorova
Executive Secretary
Secretariat of the Council of Europe Convention on Action against Trafficking in
Human Beings
F-67075 Strasbourg Cedex
France

**Directorate General for the
Administration of Justice
and Law Enforcement**
Law Enforcement and
Combating of Crime
Department

Turfmarkt 147
2511 DP The Hague
Postbus 20301
2500 EH The Hague
www.rijksoverheid.nl/jenv

Contact
Anouk Rooijers
senior policy advisor
M +31 6 5009 4089

Date 20 October 2023
Concerning Reception of the final report of the Group of Experts on Action against
Trafficking in Human Beings

Our reference
4940547

Dear Ms. Nestorova,

The Netherlands would like to thank the Group of Experts on Action against Trafficking in Human Beings (GRETA) for its third evaluation on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings in the Netherlands. The process to come to this report has been intensive and the Netherlands would like to thank GRETA, and especially the delegation of GRETA that visited the Netherlands (composed of yourself, Ms. Antoaneta Vassileva, Mr. Peter Van Hauwermeiren, and Mr. Roemer Lemaître) for its very constructive cooperation during this process.

The Netherlands is pleased with the content and the recommendations contained in the final report. The report recognises the progress that has been made in many different areas since the publication of GRETA's second report on the Netherlands on the October 19, 2018. The recommendations offer valuable information to strengthen specific aspects of our approach. This information will be used in our new National Action Plan, that is currently being developed. Many issues mentioned in the recommendations are already included in this Action Plan. Other recommendations are dealing with subjects that will be influenced by the legislative procedure regarding the modernisation of Article 273f of the Dutch Criminal Code, which consists of the penal provision on trafficking in human beings. As soon as the new Action Plan is available and the new Article of the Dutch Criminal Code has been installed, an update will be sent to you.

Attached to this letter you will find already some more detailed comments on GRETA's report.

Yours sincerely,

The Minister for Migration

A handwritten signature in blue ink, appearing to be 'E. van der Burg', is written over a faint, light blue rectangular stamp.

E. van der Burg

**Directorate General for the
Administration of Justice
and Law Enforcement**
Law Enforcement and
Combatting of Crime
Department

Date
20 october 2023

Our reference
4940547

Comments of the Kingdom of the Netherlands to the 2023 Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings

Paragraph 76

Working with the assumption that GRETA refers to cases of labour – and other forms of – exploitation prosecuted under 273f of the Dutch Criminal Code, there is already the possibility for victims to claim compensation. In cases where the National Victim Support desk (part of the Public Prosecution Service) is in contact with a victim, who is not involved in the criminal proceedings, there is always contact with the victim to look for alternatives, for example to start a civil procedure. In other cases the victim is entitled to the criminal proceedings.

Directorate General for the
Administration of Justice
and Law Enforcement
Law Enforcement and
Combating of Crime
Department

Date
20 October 2023

Our reference
4940547

Paragraph 96

With respect to the recommendation of GRETA regarding the proper use of the concept of "abuse of a position of vulnerability", the Netherlands Public Prosecution Service points out that it is already current practice that in virtually every indictment of THB, the concept of abuse of a vulnerable position and abuse of factual circumstances is mentioned.

Paragraph 144

The Netherlands Labour Authority (NLA) would like to mention that on the 7th of July 2022, the NLA published its monitor on labour exploitation and serious disadvantage 2020 - 2021. In addition, on the 13th of January 2023, the NLA published an update with information on serious disadvantage and labour exploitation. The 2022 monitor will be published in the autumn of 2023. Based on the national dataset used for the monitors, the NLA makes data per region available to its partners. In this manner the NLA has improved the availability of data to its partners, which makes sure better follow-up action can be taken.

Paragraph 163

With regards to this paragraph the NLA would like to mention that it has previously described in detail the process that a report of (possible) labour exploitation or (possible) serious disadvantage goes through.¹ It receives reports of labour exploitation and reports of serious violations of labour laws that may cause serious disadvantage. It investigates all such reports and follows them up where possible. Criminal law (investigation) in the case of suspected labour exploitation as referred to in art 273f of the Criminal Code, and administrative law (supervision) in the case of serious violations of labour laws ("serious disadvantage"). As for the investigation process, no distinction is made between serious disadvantage and labour exploitation. This means that any report on this topic is taken up as a report of (possible) labour exploitation. I would like to refer the experts to the policy response to the "Dadermonitor 2017 – 2021" in which this has also been explained in detail.²

Paragraph 164

¹ [Rapportage Inspectie SZW: kostenvoordelen en arbeidsuitbuiting | Kamerstuk | Rijksoverheid.nl](#)

² [Kamerbrief met beleidsreactie op Dadermonitor 2017-2021 | Kamerstuk | Rijksoverheid.nl](#)

With regards to paragraph 164, the Netherlands would like to mention the various measures that are implemented in the context of the report of the Taskforce Protection of Labour Migrants. This report has indicated over 50 measures the government should take to ensure better registration, housing and work circumstances for labour migrants. The report also entails better cooperation between enforcement authorities, which has also been advised by GRETA. These parts of recommendation 164 therefore are implemented in the context of the implementation of the recommendations of the Taskforce. The last part of paragraph 164, training of labour inspectors, is ongoing process (as also indicated by GRETA in the use of the phrase 'continue'). The NLA organises and provides information meetings for inspectors and chain partners to raise awareness about labour exploitation. From the beginning of 2023, the training 'recognising signs of labour exploitation and 'serious disadvantage' is available to all inspectors of the NLA. In addition, the NLA is intensifying its approach to labour exploitation with the establishment of a department with detectives specialised in labour exploitation.

**Directorate General for the
Administration of Justice
and Law Enforcement**
Law Enforcement and
Combatting of Crime
Department

Date
20 October 2023

Our reference
4940547

Paragraph 213

Regarding this recommendation, the Netherlands can inform you that under the current policy framework once again all possible foreign victims of trafficking are offered a recovery and reflection period. This includes those falling under the Dublin Regulations, although the recovery and reflection period is shorter for them, they are offered a period of 30 days whereas other victims are offered 90 days. The policy framework for granting these periods to victims falling under the Dublin Regulations was changed in May 2023 pursuant to ECJ Case C-66/21 - *Staatssecretaris van Justitie en Veiligheid (Eloignement de la victime de la traite d'êtres humains)*³. In this case the ECJ ruled all victims have the right to a recovery and reflection period, but EU Member States may strike a balance between the duration of this period and certain time periods laid down in the Dublin Regulations to ensure the correct relationship between those instruments and the preservation of their effectiveness. Following this case, the Netherlands changed its policy in order to offer all possible foreign victims of trafficking a recovery and reflection period, with a minimum period of 30 days in accordance with Article 13 of the Convention. As regards the assistance mentioned in Article 12, paragraph 1 and 2 of the Convention, this is ensured in the Netherlands when victims are offered a recovery and reflection period.

³ Case C-66/21 - *Staatssecretaris van Justitie en Veiligheid (Eloignement de la victime de la traite d'êtres humains)*, ECLI:EU:C:2022:809