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Group of Experts on Action
against Trafficking in Human Beings

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

First evaluation round

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Preamble

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Executive summary

Italy has taken a number of important steps to combat trafficking in human beings. Since 1998, there is a possibility in law for victims of trafficking to receive a residence permit in order to be involved in assistance and social integration projects. The national legal framework in the field of action against trafficking in human beings has evolved over the years in the light of Italy's international commitments. Most recently, Legislative Decree No. 24/2014 transposing Directive 2011/36/EU has amended the criminal law provisions on trafficking and slavery, and has provided for the adoption of a national anti-trafficking action plan and the setting up of a State compensation fund for victims of trafficking.

Despite the role played by the Department for Equal Opportunities as regards the implementation of national anti-trafficking policy, GRETA is concerned by the absence of a national co-ordination structure which involves all relevant public bodies as well as civil society organisations. GRETA urges the Italian authorities to strengthen the institutional framework for action against human trafficking in order to improve co-ordination and ensure a more effective involvement of all public bodies having a role in combating trafficking. In this context, GRETA stresses the importance of involving NGOs and other members of civil society in the development, implementation and evaluation of anti-trafficking policies.

No national strategy or action plan against trafficking in human beings has been adopted in Italy so far. As foreseen by Legislative Decree No. 24/2014, the Italian authorities are in the process of drafting the first national action plan. GRETA stresses the importance of adopting as a matter of urgency a national anti-trafficking action plan defining priorities, objectives, concrete activities and stakeholders responsible for their implementation.

While Italy has longstanding experience in tackling trafficking for the purpose of sexual exploitation, GRETA notes that more attention should be paid to trafficking for labour exploitation, which has been on the rise. The criminalisation of irregular migration has had negative consequences for victims of trafficking. Another aspect which requires additional attention is child trafficking. GRETA calls upon the Italian authorities to strengthen action to combat trafficking for the purpose of labour exploitation, to increase prevention and protection measures that address the particular vulnerability of children to trafficking, and to reduce the vulnerability of irregular migrants to trafficking.

No national information campaign on human trafficking has been conducted in Italy in recent years. GRETA commends the awareness-raising initiatives at regional and local level, but stresses the importance of developing country-wide awareness-raising activities on all forms of human trafficking as well as increasing prevention through education in schools. GRETA also urges the Italian authorities to increase efforts to discourage demand as a root cause of human trafficking, bearing in mind that such measures should be balanced and not lead to the criminalisation of victims of trafficking. Further, GRETA urges the authorities to strengthen the aspect of prevention through socio-economic empowerment measures in favour of vulnerable groups.

GRETA is concerned by the absence of national guidelines or agreed procedures for the identification of victims of trafficking in Italy. The conclusion of Memoranda of Understanding between relevant stakeholders at regional or local level provide examples of good practice, but cannot fill the absence of a coherent national identification and referral mechanism. GRETA urges the Italian authorities to strengthen multi-agency involvement in victim identification by introducing a clear national referral mechanism, to provide frontline staff with operational indicators and training in order to ensure that they adopt a proactive and harmonised approach to detecting and identifying victims of trafficking. Increased attention should be paid to detecting victims of trafficking among unaccompanied minors, irregular migrants and asylum seekers.

The provision of assistance to victims of trafficking is organised at local level by civil society organisations, in co-operation with the local or regional authorities, and with funding provided principally from the State budget. GRETA commends the work of civil society organisations and local actors who provide assistance to victims and notes that a high number of victims are supported and given the possibility to stay in Italy and integrate into Italian society. However, GRETA urges the Italian authorities to make sure that assistance is not made conditional on victims' co-operation in the investigation and criminal proceedings. Specific assistance projects and shelters for child victims of trafficking should be created, taking due account of their special needs and the best interests of the child. Moreover, the authorities should ensure that there are sufficient places in shelters for male victims, and provide long-term funding for civil society organisations that run victim assistance projects.

The recovery and reflection period provided for under the Convention is not expressly laid down in Italian law. GRETA urges the Italian authorities to specifically define the recovery and reflection period in law, making it clear that this period is not conditional on the victim's co-operation with the law enforcement authorities and that victims cannot be expelled while it is ongoing.

GRETA welcomes the possibility for victims of trafficking to be granted a residence permit both on the basis of their personal situation and when co-operating with the authorities. Nevertheless, GRETA invites the Italian authorities to ensure that victims can fully benefit in practice from the right to obtain a renewable residence permit, regardless of the form of exploitation they have suffered.

Despite the existence of legal possibilities for trafficking victims to obtain compensation, there have been only a few successful compensation claims. GRETA urges the Italian authorities to systematically inform victims of trafficking of their right to compensation and to ensure that victims have effective access to legal assistance.

Furthermore, GRETA urges the Italian authorities to adopt a clear legal and policy framework for the return of trafficked persons. This implies informing victims about existing programmes, protecting them from re-victimisation and re-trafficking, and ensuring compliance with the *non-refoulement* obligation.

GRETA is concerned by reports indicating that victims of trafficking are sometimes convicted of criminal offences, in particular linked to irregular migration. GRETA urges the Italian authorities to ensure compliance with Article 26 of the Convention through the adoption of a provision on non-punishment of victims of trafficking for their involvement in unlawful activities, to the extent that they were compelled to do so, or by developing relevant guidance.

GRETA is also concerned by the low conviction rates and urges the Italian authorities to strengthen their efforts to ensure that crimes related to trafficking for all types of exploitation are proactively investigated and prosecuted promptly and effectively, leading to proportionate and dissuasive sanctions. Full use should be made of all measures available to protect victims and witnesses of trafficking and to prevent their intimidation during the investigation and during and after the court proceedings.

I. Introduction

1. Italy deposited the instrument of ratification of the Council of Europe Convention on Action against Trafficking in Human Beings (“the Convention”) on 29 November 2010. The Convention entered into force for Italy on 1 March 2011.¹

2. As established in Article 36(1) of the Convention, the Group of Experts on Action against Trafficking in Human Beings (“GRETA”) monitors the implementation of the Convention by the Parties. GRETA does so in conformity with the procedure laid down in Article 38 of the Convention and the Rules on the evaluation procedure of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Parties. For the first evaluation round (2010-2013), GRETA drew up a monitoring timetable according to which the Parties to the Convention were divided into groups, Italy being in the fourth group of Parties to be evaluated.

3. In accordance with Article 38 of the Convention, GRETA proceeded with the examination of the measures taken by Italy to implement the provisions set out in the Convention. The “Questionnaire for the evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Parties – first evaluation round” was sent to Italy on 1 February 2013. The deadline for replying to the questionnaire was 1 June 2013. Italy submitted its reply on 4 June 2013.²

4. In preparation of the present report, GRETA used the reply to the questionnaire by Italy, other information collected by GRETA and information received from civil society. In addition, an evaluation visit to Italy took place from 2 to 6 December 2013, carried out by the following delegation:

- Ms Alexandra Malangone, member of GRETA;
- Ms Rita Theodorou Superman, member of GRETA;
- Ms Petya Nestorova, Executive Secretary of the Council of Europe Convention on Action against Trafficking in Human Beings;
- Mr Markus Lehner, Administrator at the Secretariat of the Convention on Action against Trafficking in Human Beings.

5. During the visit, the GRETA delegation held meetings with officials from relevant ministries and public agencies (see Appendix II). Moreover, the GRETA delegation travelled to four regions of Italy (Abruzzo, Apulia, Campania and Veneto) where it met local stakeholders. These meetings took place in a spirit of close co-operation.

6. The GRETA delegation held separate meetings with representatives of non-governmental organisations (NGOs), religious organisations, trade unions and lawyers. It also met representatives of the International Organization for Migration (IOM) and the Office of the United Nations High Commissioner for Refugees (UNHCR). GRETA is grateful for the information provided by them.

7. Further, in the context of the evaluation visit to Italy, the GRETA delegation visited shelters for victims of trafficking in Adelfia, Martinsicuro and Padua, and a drop-in centre for victims of trafficking and violence in Lecce. The GRETA delegation also visited the Identification and Expulsion Centre (CIE) Ponte Galeria in Rome.

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

² The reply to the questionnaire has been made public with the agreement of the Italian authorities and is available on GRETA’s website: http://www.coe.int/t/dghl/monitoring/trafficking/Source/Public_R_Q/GRETA_2014_2_RQ_ITA.pdf.

8. GRETA is grateful for the assistance provided by the contact person appointed by the Italian authorities, Mr Michele Palma, Director General of the Office for General and International Affairs and Interventions in the Social Field, at the Department for Equal Opportunities of the Presidency of the Council of Ministers, as well as by Ms Tiziana Zannini and Ms Elena Falcomatà of the same Department.

9. The draft version of the present report was adopted by GRETA at its 19th meeting (17-21 March 2014) and was submitted to Italy's authorities for comments on 11 April 2014. The authorities' comments were received on 11 June 2014 and were taken into account by GRETA when drawing up its final evaluation report, which was adopted at the 20th meeting (30 June - 4 July 2014).

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

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

10. Italy is a country of destination and transit for victims of trafficking in human beings (THB). There is no data on the total number of victims of THB identified every year due to the absence of a uniform identification system, but the Department of Equal Opportunities gathers statistics on the number of victims of THB who benefitted annually from assistance and social integration projects.³ According to these statistics, there were 1 955 assisted victims in 2011, 1 650 in 2012 and 925 in 2013. The majority of them were women (1 417 in 2011, 1 094 in 2012 and 650 in 2013). There were 446 male victims in 2011, 420 in 2012 and 230 in 2013. As for child victims, there were 63 in 2011, 114 in 2012 and 45 in 2013.⁴ The remaining victims were transgender adults.

11. The prevalent form of exploitation of the victims who took part in assistance projects was sexual exploitation (1 359 victims in 2011, 1 067 in 2012, 570 in 2013), followed by labour exploitation (377 victims in 2011, 296 in 2012, 163 in 2013). The number of victims of forced begging and forced criminality was 127 in 2011, 116 in 2012, and 72 in 2013. Further, there were 31 victims of THB for domestic servitude in 2011 and 25 in 2012, as well as three identified cases of trafficking for the purpose of organ removal in 2011 and another three in 2012.⁵

12. The principal countries of origin of the victims of THB were Nigeria (952 in 2011, 765 in 2012, 434 in 2013), Romania (197 in 2011, 145 in 2012, 84 in 2013), Morocco (130 in 2011, 136 in 2012, 52 in 2013) and China (105 in 2011, 93 in 2012, 42 in 2013). Other major countries of origin were Egypt, Ghana, Brazil, Tunisia, Albania, Bangladesh, Senegal and the Republic of Moldova.

13. GRETA notes that the above figures do not reveal the real scale of the phenomenon of THB in Italy as there are shortcomings in the identification of victims of trafficking and data collection, lack of awareness about the problem of THB among the general public and certain public officials, and insufficient attention to trafficking for purposes other than sexual exploitation. Due to its geographical situation and long coastline, Italy is particularly vulnerable to migrant smuggling and trafficking.⁶ There are reports suggesting that THB for the purpose of labour exploitation, in particular of irregular migrants, has assumed worrying proportions in Italy, but is not addressed adequately.⁷ Further, trafficking of children for the purpose of sexual exploitation, forced begging and forced criminal activities is reportedly on the rise.

³ There are two types of assistance projects, under Article 18 of Legislative Decree No. 286/1998 on "Consolidated text of provisions regulating immigration and the rules relating to the status of foreign nationals" and under Article 13 of Law No. 228/2003 on "Measures against trafficking in persons". Separate statistics are collected for each type of project. However, there is a significant degree of double counting as many victims are first assisted under Article 13 projects for three to six months before being assisted under Article 18 projects, often during the same year. For this reason, only statistics concerning Article 18 projects are quoted in paragraphs 10 to 12, while the statistics for Article 13 projects are cited in paragraph 153 of this report. This explains the difference with the figures quoted in the report of the UN Special Rapporteur on trafficking in persons, especially women and children, following her visit to Italy in September 2013 (see document A/HRC/26/37/Add.4, available at <http://www.ohchr.org/EN/Issues/Trafficking/Pages/Visits.aspx>)

⁴ According to the Italian authorities, the drop in figures in 2013 is due to a change in the data collection method: only new victims entering the assistance system in the given year were counted in 2013, whereas in previous years the figures included all assisted victims, including those who started receiving assistance in a different year.

⁵ See http://www.pariopportunita.gov.it/images/stories/documenti_vari/UserFiles/II_Dipartimento/tratta/Dati3_tratta.pdf

⁶ The number of migrants smuggled by sea to Italy was 62 692 in 2011, 8 717 in 2012, and 35 085 in 2013. See Philippe De Bruycker, Anna Di Bartolomeo and Philippe Fargues, *Migrants smuggled by sea to the EU: facts, laws and policy options*, Migration Policy Centre, Research Report 2013/09, 2013.

⁷ Amnesty International, *Exploited Labour: Migrant Workers in Italy's Agricultural Sector*, December 2012, available at: http://www.amnestyusa.org/sites/default/files/exploited_labour_italy_migrants_report_web.pdf

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

a. Legal framework

14. At the international level, in addition to the Council of Europe Convention on Action against Trafficking in Human Beings, Italy is Party to the United Nations Convention against Transnational Organised Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children ("Palermo Protocol"), both of which it ratified in 2006. Italy is also Party to the UN Convention on the Rights of the Child and its Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (ratified in 1991 and 2002, respectively), the Convention on the Elimination of All Forms of Discrimination against Women (ratified in 1985), as well as the following conventions elaborated under the International Labour Organisation (ILO): Convention concerning Forced or Compulsory Labour (No.29), Convention concerning the Abolition of Forced Labour (No.105), Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (No.182) and Convention concerning Decent Work for Domestic Workers (No.189). Further, Italy is Party to a number of Council of Europe conventions in the criminal field which are relevant to action against THB.⁸

15. As a member of the European Union (EU), Italy is bound by Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, and who co-operate with the competent authorities, Directive 2004/80/EC relating to compensation to crime victims, and Directive 2012/29/EU of the European Parliament and the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA of 15 March 2001 on the standing of victims in criminal proceedings.

16. The national legal framework in the field of action against THB has evolved over the years in the light of Italy's international obligations. Provisions concerning victims of THB were introduced in the aliens' legislation in 1998 through Legislative Decree No. 286/1998⁹, Article 18 of which provides for a special residence permit to victims of THB to enable their participation in assistance and social integration projects. In 2003, Law No. 228/2003 on "Measures against trafficking in persons" introduced amendments to the Criminal Code (CC), in particular Article 600 ("Placing or holding a person in condition of slavery or servitude"), Article 601 ("Trafficking in persons") and Article 602 ("Purchase and sale of slaves"), in line with the Palermo Protocol. Law No. 108/2010 on "Ratification and implementation of the Council of Europe Convention on action against trafficking in human beings and provisions adjusting domestic law" and Law No. 172/2012 on "Ratification of the Council of Europe Convention for the protection of children against sexual exploitation and sexual abuse and provisions adjusting domestic law" led to further amendments of the CC.

17. On 28 March 2014, Legislative Decree No. 24/2014 transposing Directive 2011/36/EU entered into force.¹⁰ The Decree provides, *inter alia*, for amendments to Articles 600 and 601 of the CC (see paragraph 43 and following), the adoption of a national anti-trafficking action plan, the setting up of a State compensation fund for victims of THB, and improved assistance to, and protection of, victims of trafficking.

⁸ In particular the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse; the Convention on Cybercrime; the European Convention on Mutual Assistance in Criminal Matters and its Additional Protocol; the European Convention on Extradition and its Second Additional Protocol; and the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and the Convention on the transfer of sentenced persons.

⁹ Legislative Decree No. 286/1998 on "Consolidated text of provisions regulating immigration and the rules relating to the status of foreign nationals", hereafter "Consolidated Immigration Act".

¹⁰ Legislative Decree No. 24 of 4 March 2014 laying down the transposition of Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, replacing Council Framework Decision 2002/629/JHA.

18. Other internal legal acts of relevance to action against THB include:

- Decree No. 394/1999 of the President of the Republic regulating the implementation of the Consolidated Immigration Act, which established an inter-ministerial commission responsible for the implementation of social protection projects for victims of THB;
- Decree No. 237/2005 of the President of the Republic regulating the implementation of the special assistance programme for victims of trafficking under Article 13 of Law No. 228/2003.

b. National Strategy or Action Plan

19. No national strategy or action plan against trafficking in human beings has been adopted in Italy so far. GRETA was informed that the process of drafting an anti-trafficking action plan started in 2011, but was discontinued due to the political situation. Article 9 of the above-mentioned Legislative Decree No. 24/2014 transposing Directive 2011/36/EU foresees the adoption of a national action plan within three months of its entry into force, by decision of the Council of Ministers, following the proposal of the President of the Council of Ministers and the Minister of the Interior, and after consultation with the other Ministers concerned and agreement of the Joint Conference of the state and regional and local authorities. GRETA was informed that the plan would focus on prevention, assistance and protection of victims, judicial cooperation, identification of potential victims, and adaptation of national legislation. It will also provide for the establishment of a national referral mechanism for trafficked persons, including minimum protection standards and standard operating procedures for the referral of victims to service providers. In addition, it will include guidelines on how to design and implement a sustainable system aiming to both prosecute traffickers and provide support to victims, while defining roles for governmental institutions and civil society. **GRETA stresses the importance of adopting as a matter of urgency a national action plan defining priorities, objectives, concrete activities and stakeholders responsible for their implementation, and would like to be kept informed of developments concerning the adoption of such a plan.**

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

a. Inter-ministerial Commission for the support of victims of trafficking, violence and serious exploitation

20. The Inter-ministerial Commission in charge of implementing Article 18 of the Consolidated Immigration Act was established pursuant to Article 25, paragraph 2, of Presidential Decree No. 394/1999 regulating the implementation of the Consolidated Immigration Act. Presidential Decree No. 102/2007 on the reform of the Inter-ministerial Commission laid down its composition and mandate and provided that its term of office would be three years. The commission was chaired and co-ordinated by the Department for Equal Opportunities and included representatives of the Ministry of the Interior, the Ministry of Justice, the Ministry of Labour and Social Policies, the Ministry of Family Affairs, the National Association of Italian Municipalities (ANCI) and the State-Regional Conference.

21. The Inter-ministerial Commission was designed as a technical rather than policy-making body and performed supervisory functions with regard to victim assistance programmes. In particular, it was responsible for the planning of resources, assessing and selecting projects to be funded in the framework of the annual call for tenders. NGOs were not part of the Inter-ministerial Commission but were occasionally invited for hearings.

22. In 2011, the commission's mandate was extended for another two years.¹¹ However, GRETA was informed that, following the adoption of Legislative Decree No. 95 of 6 July 2012 on "Urgent provisions for public expenditure review with unchanged services for citizens", the Commission's mandate expired in May 2013. The Department for Equal Opportunities is currently responsible for organising the annual call for tenders for victim assistance programmes and, more generally, for co-ordinating and implementing national anti-trafficking policy. The Italian authorities have informed GRETA that the new National Action Plan against Trafficking in Human Beings envisages the establishment of an Inter-institutional Committee which will include relevant governmental bodies as well as representatives of civil society with a view to monitoring and assessing the effectiveness of the plan's activities.

b. Department for Equal Opportunities

23. The Department for Equal Opportunities (DEO), which is subordinated to the Presidency of the Council of Ministers, is the governmental body responsible for co-ordinating and implementing anti-trafficking policy, with the exception of law enforcement and prosecution activities. Within the DEO, the Office for General and International Affairs and Interventions in the Social Field is the entity responsible for anti-trafficking activities. This office has a broad portfolio in the area of equal opportunities which includes, *inter alia*, the prevention of exploitation and sexual abuse of children and the representation of the Italian government at international level.

24. The DEO manages the annual call for tenders through which NGOs are selected to implement projects for the provision of assistance to victims of trafficking, in co-operation with the regional and local authorities. Two types of projects are funded, under Article 13 of Law No. 228/2003 on "Measures against trafficking in persons", and under Article 18 of the Consolidated Immigration Act (the so-called "Article 13" and "Article 18" projects). Moreover, the DEO is responsible for the collection of data on victims assisted through social protection projects, which is entered in a computerised system called SIRIT ("Information system for the collection of data on trafficking in human beings") by NGOs and other bodies implementing social protection projects (see paragraph 81). The DEO also finances the national toll-free anti-trafficking helpline (800 290 290) which is run by the municipality of Venice (see paragraph 124).

c. Ministry of Labour and Social Affairs

25. The Ministry of Labour and Social Affairs manages the "Register of associations and bodies carrying out activities for the fight against discrimination". All NGOs applying for the implementation of social protection projects for victims of trafficking have to be enrolled in this register, which requires the fulfilment of certain criteria. The Labour Inspection, which is subordinated to the Ministry, defines the national priorities, provides guidance policies and establishes the financial and organisational criteria for inspections and prevention.

d. National and District Anti-Mafia Directorates

26. Pursuant to Article 51, comma 3 bis, of the Code of Criminal Procedure, the prosecution of THB offences is attributed to anti-mafia prosecutors. The National Anti-Mafia Directorate (DNA) is composed of the National Anti-Mafia Prosecutor and 20 members of the Public Prosecutor's Office, a judicial authority entrusted with directing investigations. DNA is responsible for overseeing and co-ordinating the criminal prosecution of organised crime, including THB and slavery offences, by the 26 District Anti-Mafic Directorates (DDA) across Italy. It also ensures the exchange of information between the DDAs and data collection related to criminal proceedings. Furthermore, anti-mafia prosecutors play an important role in the *Questore's* decision on the issuing of residence permits for victims of THB.

¹¹ Decree of the President of the Council of Ministers of 11 January 2011 on the extension of the collegial bodies at the Ministry for Equal Opportunities.

e. Law enforcement agencies

27. Public security and criminal investigations are within the remit of two distinct nationwide law enforcement structures, the State Police and the Carabinieri. The State Police is a civil police force with general competence, falling directly under the authority the Minister of the Interior. There is a police headquarters (*Questura*) in every province, headed by a Chief of Police (*Questore*) who has the power to decide, on the proposal of NGOs, social services or prosecutors, whether a victim of THB is granted a residence permit which allows him/her access to assistance and social integration projects. Each *Questura* has a criminal investigation team which also investigates cases of THB.

28. The Carabinieri are a police force with military status independently placed within the Ministry of Defence, with general police duty competence and responsibility for public safety, as well as special prerogatives conferred by law. The Carabinieri have functional dependence on the Minister of Internal Affairs when dealing with public order, as well as on the judiciary when acting as criminal police. The Carabinieri are made up of different components – territorial, training, mobile and specialised – which are directed, co-ordinated and controlled by the General Headquarters. The Carabinieri Special Operations Group (ROS) is mainly responsible for dealing with organised crime and terrorism; there are six ROS departments, 20 units and two teams across Italy which investigate all major cases of THB, including those involving international and judicial co-operation. Moreover, the Specialist Units Division includes the Carabinieri Command for the Protection of Labour specialised in the field of labour exploitation (see paragraph 130).

f. Regional and local authorities

29. The Italian state territory is subdivided into 20 regions, 109 provinces and some 8 000 municipalities. Regional and local authorities play an important role in the provision of assistance to victims of THB. They co-finance both the special support programmes for victims under Article 13 of Law No. 228/2003 and programmes of assistance and social integration under Article 18 of the Consolidated Immigration Act. The social services of the provinces and municipalities are often cornerstones of the local anti-trafficking networks, which also involve the police, prosecutors and civil society actors. Further, as noted in paragraph 24, the social services of the municipality of Venice run the nationwide toll-free anti-trafficking helpline.

g. NGOs, other civil society actors and international organisations

30. The Italian system of assistance to victims of trafficking is to a large extent based on the work of NGOs that are usually set up in the form of non-profit organisations (ONLUS) such as associations or social cooperatives.¹² Most of them operate at local or regional level, but are connected via inter-regional and national networks which make it possible to refer victims of THB identified in one region to another. Many NGOs are part of the Co-ordinating National Community of Hospitality network (CNCA). NGOs run shelters for victims of THB and implement assistance programmes funded by the DEO and the regional or local authorities. NGOs do outreach work, run drop-in centres where victims can ask for support and helpdesks at identification and expulsion centres (CIEs) for irregular migrants, where they work on the identification of victims of trafficking among detainees. Moreover, NGOs organise prevention activities and provide training on THB for police officers, prosecutors, social workers, outreach workers and other relevant stakeholders.

31. There are many religious organisations active in the fight against trafficking (e.g. Caritas and the USMI women religious umbrella organisation). These organisations run shelters and often provide assistance to victims of trafficking with their own financial means.

32. Trade Unions (CGIL, CISL, UIL) also play a role in the fight against labour exploitation. They observe the situation in the respective economic fields, do research and advocate improvements to the legal provisions with a view to combating labour exploitation.

¹² According to Law No. 381/1991 on “Rules governing social co-operatives”.

33. Specialised lawyers like those working for the Association for Legal Studies on Immigration (ASGI) represent migrants, including victims of trafficking, in various administrative and judicial proceedings. In addition, they carry out research related to immigration legislation and policies as well as trafficking in human beings, and lobby for changes. They are also involved in training activities for judges, prosecutors and other actors.

34. The Italian office of UNHCR trains staff in reception centres for asylum seekers on the linkages between the asylum system and THB and lobbies for measures to improve the existing procedures and legislation. Moreover, UNHCR has a member in each territorial commission for refugee status determination and thus contributes to the identification of victims of THB among asylum seekers.

35. IOM Rome assists victims of trafficking, including unaccompanied children, to return safely to their countries of origin and performs the necessary risk assessment. Further, IOM Rome is involved in a joint project with UNHCR, the Italian Red Cross and Save the Children entitled "*Progetto Praesidium*", which provides assistance and counselling to irregular migrants arriving by sea in southern Italy and participates in the identification of potential victims of THB at border points.

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

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

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

36. Article 1(1)(b) of the Convention establishes as one of its purposes the protection of the human rights of the victims of trafficking. Further, Article 5(3) includes the obligation for Parties to promote a human rights-based approach in the development, implementation and assessment of the policies and programmes to prevent THB. The Explanatory Report on the Convention states that the main added value of the Convention is its human rights perspective and focus on victim protection. In the same vein, the United Nations Recommended Principles and Guidelines on Human Rights and Human Trafficking emphasise that “the human rights of trafficked persons shall be at the centre of all efforts to prevent and combat trafficking and to protect, assist and provide redress to victims”.¹³

37. THB constitutes an offence to the dignity and fundamental freedoms of the human being and thus a grave violation of human rights. GRETA emphasises the obligations of States to respect, fulfil and protect human rights, including by ensuring compliance by non-State actors, in accordance with the duty of due diligence. A State that fails to fulfil these obligations may, for instance, be held accountable for violations of the European Convention on Human Rights and Fundamental Freedoms (the ECHR). This has been confirmed by the European Court of Human Rights in its judgment in the case of *Rantsev v. Cyprus and Russia*, where the Court concluded that THB within the meaning of Article 3(a) of the Palermo Protocol and Article 4(a) of the Anti-Trafficking Convention, falls within the scope of Article 4 of the European Convention on Human Rights¹⁴ (which prohibits slavery, servitude and forced or compulsory labour). The Court further concluded that Article 4 entails a positive obligation to protect victims or potential victims, as well as a procedural obligation to investigate trafficking.¹⁵

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

39. GRETA wishes to stress the need for States to also address THB as a form of violence against women and to take account of gender-specific types of exploitation, as well as the particular situation of child victims of trafficking, in line with the relevant international legal instruments.¹⁶

¹³ Addendum to the report of the United Nations High Commissioner for Human Rights (E/2002/68/Add. 1), <http://www.ohchr.org/Documents/Publications/Traffickingen.pdf>

¹⁴ *Rantsev v. Cyprus and Russia*, application No. 25965/04, judgment of 7 January 2010, ECHR 2010, paragraph 282.

¹⁵ See *Siliadin v. France*, application No. 73316/01, judgment of 26 July 2005, ECHR 2005 VII; *C.N. and V. v. France*, application No. 67724/09, judgment of 11 October 2012, and *C.N. v. United Kingdom*, application No. 4239/08, judgment of 13 November 2012.

¹⁶ Such as the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, the United Nations Convention on the Rights of the Child and the Optional Protocol thereto on the sale of children, child prostitution and child pornography, and the United Nations Convention on the Elimination of All Forms of Discrimination against Women.

40. Italian legislation does not contain direct references to trafficking in human beings as a violation of human rights. THB is a criminal offence included in the Criminal Code in the chapter entitled “Offences against the person”, together with slavery and sexual offences against minors. The Italian authorities have referred to the assistance and social integration projects which are being implemented since 2000 and aim to put the victim at the centre of the system of intervention.

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

b. Definitions of “trafficking in human beings” and “victim of THB” in Italy’s law

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

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

43. The definition of THB in Italian law is provided in Article 601 of the Criminal Code (CC) entitled “Trafficking in persons” which, following the entry into force on 28 March 2014 of Legislative Decree No. 24/2014,¹⁷ reads as follows:

“A term of imprisonment of from eight to twenty years shall be applied to whoever recruits, introduces into the territory of the State, transfers even outside said territory, transports, yields authority over a person to another person, offers lodging to one or more persons who are in the conditions specified in Article 600, or performs the said conducts against one or more persons by deceit, violence, threats, abuse of authority or taking advantage of a situation of vulnerability, or of a weaker physical or psychic condition or a condition of need, or by promising or giving money or of any other advantage to the person having control over that person, for the purpose of inducing or forcing him/her to perform work, sex or to beg or, in any case, to perform unlawful activities entailing his/her exploitation or removal of organs.

The same penalty shall apply to whoever, even without using the means provided for in the first paragraph, performs conducts set forth therein against a minor.”¹⁸

¹⁷ Before 28 March 2014, Article 601 CC read: “Whoever carries out trafficking in persons who are in the conditions referred to in Article 600, that is, with a view to perpetrating the crimes referred to in the first paragraph of the said article, or whoever leads any of the aforesaid persons through deceit, or obliges such person by making use of violence, threats, or abuse of power, by taking advantage of a situation of physical or psychic inferiority, and poverty; or by promising money or making payments or granting other kinds of benefits to those who are responsible for the person in question, to enter the national territory, stay, leave it, or to displace him or herself internally, shall be punished by imprisonment from eight to twenty years. The punishment is increased by a third to a half if the facts mentioned in subparagraph one above are directed against a minor of less than eighteen years of age or if they are intended for the exploitation of prostitution or aimed at the removal of organs.”

¹⁸ Unofficial translation provided by the Italian authorities.

44. GRETA notes with satisfaction that the new text of Article 601 of the CC brings the Italian definition of THB closer to the one contained in the Convention. Given that “lodging” corresponds to the action of “harbouring” in the Convention, only the Convention’s element of “receipt” is not explicitly mentioned. According to the Italian authorities, the action of “receipt” is covered by the offence provided for by Article 601 of the CC, even if not expressly indicated. However, the authorities have not provided examples of relevant case-law in support of this. **In order to be fully consistent with the definition of THB in the Convention, GRETA considers that the Italian authorities should ensure that “receipt” as one of the actions for committing trafficking in human beings is covered by the definition of THB in the CC.**

45. The following means of the Convention’s definition are contained in Article 601 of the CC: use of force (“violence”), threat of use of force (“threats”), deception (“deceit”), abuse of power (“abuse of authority”), and abuse of a position of vulnerability (“taking advantage of a situation of vulnerability”). The means of “giving or receiving of payments or benefits to achieve the consent of a person having control over another person” is reflected in the CC as “promising or giving money or of any other advantage to the person having control over that person”. The means of “abduction” and “fraud” are not mentioned in Article 601 of the CC. As regards the means of “fraud”, the authorities have indicated that in Italian, the term “deceit” contained in Article 601 of the CC may include also a fraudulent conduct. According to the Italian authorities, “abduction” is covered as the actions typified by the provision in Article 601 of the CC presuppose or imply the illicit deprivation of the personal liberty of the victim. However, the authorities have not provided examples of relevant case-law in support of this. **In order to be fully consistent with the definition of THB in the Convention, GRETA considers that the Italian authorities should ensure that “abduction” as one of the means for committing trafficking in human beings is covered by the definition of THB in the CC.**

46. The new text of Article 601 of the CC contains a list of forms of exploitation that includes sexual exploitation, labour exploitation, forced begging, forcing into illegal activities and removal of organs. For the element “slavery or practices similar to slavery and servitude” as a form of exploitation, Article 601 refers to Article 600 of the CC, entitled “Placing or holding a person in condition of slavery or servitude”. This article was also modified by Legislative Decree No. 24/2014, to read as follows:

“Whoever exerts on any other person powers and rights corresponding to ownership; places or holds any other person in conditions of continuing subjection, sexually exploiting him/her, imposing coerced labour or forcing said person into begging, the performance of activities deemed unlawful or exploiting him/her in any other way, or to consent to organ removal shall be punished by imprisonment from eight to twenty years.

Placement or maintenance in a position of slavery occurs when use is made of violence, threats, deceit, or abuse of power, or when anyone takes advantage of a situation of vulnerability, of physical or psychic inferiority and poverty, or when money is promised, payments are made or other kinds of benefits are promised to those who are responsible for the person in question.”¹⁹

47. During the evaluation visit to Italy, GRETA was informed of difficulties in obtaining convictions under Article 600 of the CC linked to the interpretation of the term “continuing subjection.” According to existing case-law, while there is no need for continuous and uninterrupted control over the victim, there needs to be a “plurality of actions by the perpetrator” against the victim in order to constitute an offence under Article 600 of the CC. Thus cases in which only one act of exploitation was performed in respect of a person would fall outside the scope of Article 600.²⁰

¹⁹ Unofficial translation provided by the Italian authorities.

²⁰ Cass. pen., Sez. III, 26 ottobre 2006, n. 2841; Cass. pen., Sez. VI, 23 novembre 2004, n. 81; Cass. pen., Sez. V, 24 aprile 2008, n. 21195.

48. The Italian authorities have affirmed that the wording of Article 601 of the CC enables the prosecution of the offence of trafficking where the actions are carried out for the purpose of exploitation, even if the exploitation has not yet take place, since it is an offence punished for the specific intent.

49. The Convention stipulates that if one of the actions is directed against a child for the purpose of exploitation, this shall be considered "trafficking in human beings" even if none of the recognised means are involved. This provision was lacking in Italian legislation, but Legislative Decree No. 24/2014 has introduced it in paragraph 2 of the new Article 601 of the CC.

50. Pursuant to Article 4(b) of the Convention, the consent of the victim is irrelevant where any of the means set forth in the definition of THB have been used. This provision is missing from the text of Article 601 of the CC. The Italian authorities have referred to Article 50 of the CC, which provides that a person is not punishable if he/she has acted with the consent of a person who could validly dispose of the right infringed or endangered. Consent, therefore, can exempt an illicit conduct from liability only in connection with a person's alienable rights (i.e. estate-related rights) and not in connection with personal rights (such as life, physical integrity, personal liberty, sexual liberty, honour, dignity, personal identity). According to the Italian authorities, it follows that the consent given by a victim of trafficking has no legal relevance. Nevertheless, **GRETA considers that stating explicitly the irrelevance of the consent of a victim to the intended exploitation could improve the implementation of anti-trafficking provisions and provide victims with greater confidence in self-reporting to NGOs and public authorities.**

51. For further analysis of the definition of THB and related offences from a substantive criminal law perspective, see paragraphs 176-185.

ii. Definition of "victim of THB"

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

53. Italian law does not contain a definition of a victim of THB. According to the Italian authorities, any person subjected to acts prescribed by Articles 600 and 601 of the CC is considered a victim of THB. This is also reflected in the text of Article 13 of Law No. 228 of 2003 on "Measures against trafficking in persons" pursuant to which "a special support programme is hereby launched for the victims of the offences envisaged by Articles 600 and 601 of the CC".

54. The question of the definition of victim of THB is further discussed in the sections of this report dealing with the identification of victims and the assistance measures provided to them, along with the related proposals made by GRETA (see paragraphs 135, 149 and 150).

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

i. Comprehensive approach and co-ordination

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

56. The legal and policy framework in the field of action against THB in Italy, outlined above, is intended to cover all victims of THB subjected to different types of exploitation, both transnationally and within Italy. Despite the existence of victim assistance programmes since 1998, there was a shared concern among the various stakeholders met during the evaluation visit that insufficient attention was being paid to the fight against THB by the Italian Government and the situation had apparently deteriorated in the last few years. GRETA is concerned by the discontinuation of the Inter-ministerial Commission for the support of victims of trafficking, violence and serious exploitation. Moreover, GRETA notes that the current human and financial resources of the DEO are insufficient to lead and co-ordinate the fight against THB, considering the number of different functions that fall under its responsibility and the volume of the tasks its officials have to carry out.

57. GRETA notes that NGOs were not involved in the work of the Inter-ministerial Commission because its primary role was to assess projects for which NGOs applied and approve funding for such projects. Some 300 NGOs are active in Italy in the anti-trafficking field and GRETA commends their high level of commitment and expertise. As noted in paragraph 22, the new National Action Plan envisages the establishment of an Inter-institutional Committee which will include civil society representatives. **GRETA commends these plans and would like to be kept informed of their realisation.**

58. As noted in paragraph 24, the DEO manages the annual call for tenders for social assistance projects for victims of THB (see also paragraph 138). Until 2013, the annual budget for such projects was 8 million euros per year.²¹ While the provision of assistance to victims of THB is co-funded by the state and the regional or local authorities, the implementation of assistance projects and other anti-trafficking activities takes place mainly at local level through the work of NGOs. Local NGOs, social services, law enforcement authorities, prosecutors and other public entities have developed co-operation frameworks for the detection, identification of and assistance to victims of trafficking. The modalities of this co-operation and the role of the different stakeholders are laid down in Memoranda of Understanding.²² Further, in order to promote local co-operation networks against THB, the Department of Public Security of the Ministry of the Interior and the National Anti-Mafia Directorate signed in 2010 a “Memorandum of Understanding on the guidelines for the co-ordination of activities to combat trafficking in human beings”. The purpose of this agreement is to encourage the initiatives of inter-institutional collaboration and co-ordination between the judicial authorities, the police and the NGOs working in the fight against trafficking.

59. However, GRETA notes that the commendable efforts and networks at local level are not adequately supported at national level. The instruments which are usually found in other countries experiencing THB, such as a national strategy or action plan, national co-ordinator, national rapporteur, national referral mechanism, guidelines on the identification of victims, currently do not exist in Italy. Even if the local networks achieve in some parts of Italy remarkable results when it comes to the identification of and assistance to victims of THB, they cannot make up for the absence of policy and practical guidance at the national level. Moreover, GRETA was informed that the existence of local networks can be influenced by political changes and a change in a key position, such as the post of the *Questore*, can jeopardise the work of an entire network.

60. As mentioned in paragraph 19, Legislative Decree No. 24/2014 foresees the adoption of a national action plan within three months of its entry into force. GRETA was informed by the DEO that a broad range of stakeholders will be involved in the drafting of the national action plan, including the regional and local administrations, civil society and the private sector.

²¹ GRETA understands that in 2014, the budget allocated to the DEO for assistance projects for victims of THB was reduced to 5 million euros, but the DEO managed to reallocate an additional 3 million euros.

²² See, for example, the so-called “Protocol of Teramo” signed by stakeholders at Teramo District Court on 28 April 2010, entitled “Guidelines for approaching possible victims of human trafficking and severe exploitation” (Italian only), available at: <http://www.procura.teramo.it/news.aspx?id=1132>.

61. The DEO was put in charge of anti-trafficking action at a time when the focus was on THB for sexual exploitation. While Italy has longstanding experience in tackling this form of THB, GRETA notes that more attention should be paid to trafficking for labour exploitation, which has been on the rise. Various reports indicate that the phenomenon of labour exploitation is widespread in Italy, in particular amongst irregular migrants.²³ The agricultural sector, construction industry, textile industry and tourism sector are particularly affected by the phenomenon of labour exploitation. GRETA welcomes the adoption of legislative provisions in 2011 aimed at combating labour exploitation of migrants, in particular the new Article 603-bis of the CC introducing the crime of “unlawful gangmastering and labour exploitation” (*intermediazione illecita e sfruttamento del lavoro*), a phenomenon known in Italian as *caporalato* (however, see paragraph 109). In contrast, the amendments made to the Consolidated Immigration Act in 2002, the so-called “Bossi-Fini Law”,²⁴ which aimed at regulating migrant worker flows by introducing a system of entry quotas, and in 2009, criminalising irregular entry and stay,²⁵ have been criticised for creating an overly-bureaucratic system and introducing repressive norms which push migrants into illegality.²⁶ The requirement of a formal employment contract in order to obtain a residence permit exposes migrant workers who are already at risk of labour exploitation because of their irregular migration status to an increased risk.²⁷ Moreover, the introduction of the offence of illegal entry and stay has reportedly created additional difficulties in securing convictions as witness statements given by irregular migrants are not considered as trustworthy and they are afraid to report cases of exploitation to the authorities for fear of being detained and expelled. The UN Special Rapporteur on trafficking in persons, especially women and children, has stressed in her recent report the negative consequences of the criminalisation of irregular migration for victims of trafficking.²⁸

62. The ineffectiveness of the seasonal work permit system in several areas of southern Italy was analysed in a comprehensive study published in December 2010 by IOM.²⁹ Additionally, the labour inspection system reportedly suffers from lack of resources, ineffectiveness and a problematic legal framework (see paragraph 129).³⁰ GRETA was informed that the DEO was considering the setting up of a thematic working group on THB for labour exploitation, which in GRETA’s view could contribute to the development of tools to combat this form of THB.

63. As noted in paragraph 11, statistics from DEO indicate that 56 victims of THB for domestic servitude were assisted in 2011 and 2012, but GRETA notes that there is a lack of information and research on the risks of THB among domestic workers and private carers.

64. Another aspect which requires additional attention is child trafficking. The statistical information in paragraph 10 suggests that around 5% of the victims who received assistance in 2011-2013 were children. At the same time, there are reports about the increasing trend of trafficking of children for the purpose of forced begging and concerns have been expressed about the disappearance of unaccompanied minors arriving in Italy³¹ (see also paragraphs 113-114).

²³ See Amnesty International, *Exploited labour: Migrant Workers in Italy’s Agricultural Sector*, December 2012.

²⁴ Law No. 189/2002 of 30 July 2002, “*Modifica alla normativa in materia di immigrazione e di asilo*”.

²⁵ GRETA understands that Article 2, paragraph 3, alinea b, of Law No. 67 of 28 April 2014 in respect of non-custodial sentences and reform of the system of sanctions delegates to the Government the power to transform within 18 months the offence of illegal entry and stay into an administrative offence. It also stipulates that any further non-respect of administrative measures taken shall continue to be regarded as a criminal offence. In practice, this means that only the first entry will be decriminalized but will nevertheless continue to be followed by an expulsion order.

²⁶ UN Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, as quoted in Amnesty International, *Exploited labour: Migrant Workers in Italy’s Agricultural Sector*, December 2012, p. 13.

²⁷ Amnesty International, *Exploited labour: Migrant Workers in Italy’s Agricultural Sector*, December 2012, p. 17.

²⁸ See document A/HRC/26/37/Add.4, paragraphs 33-37. available at:

<http://www.ohchr.org/EN/Issues/Trafficking/Pages/Visits.aspx>

²⁹ IOM, “*Stagione amara: Rapporto sul sistema di ingresso per lavoro stagionale e sulle condizioni dei migranti in agricoltura in Campania, Puglia e Sicilia*”, December 2010.

³⁰ *Ibidem*.

³¹ See the report of the UN Special Rapporteur on trafficking in persons, especially women and children, on her mission to Italy, document A/HRC/26/37/Add.4, paragraphs 16-17, and the report by Maria Grazia Giammarinaro, OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings, following her visit to Italy from 17-18 June and 15-19 July 2013, paragraph 16.

65. GRETA urges the Italian authorities to strengthen the institutional framework for action against THB in order to improve co-ordination and ensure a more effective involvement of all public bodies having a role in combating and preventing THB and protecting its victims.

66. Further, GRETA considers that if the Department for Equal Opportunities is to fulfil the role of a co-ordinating structure in the fight against THB in Italy, investment should be made in its human and financial resources so that it can effectively carry out the full range of tasks related to THB.

67. Moreover, noting that the new National Action Plan envisages the establishment of an Inter-institutional Committee which will include civil society representatives, GRETA considers that the Italian authorities should strengthen co-ordination between public bodies and NGOs engaged in anti-trafficking action and involve NGOs and other members of civil society in the development and implementation of anti-trafficking policy, including the evaluation of anti-trafficking efforts.

68. GRETA also urges the Italian authorities to take steps to ensure that national action to combat THB is comprehensive, in particular by:

- addressing all victims of trafficking for all forms of exploitation in the anti-trafficking legal and policy framework, while taking into account the gender-dimension of trafficking and the particular vulnerability of children, including through a comprehensive national action plan against THB;
- developing guidelines on the identification and referral to assistance of victims of trafficking, building on existing expertise at local and regional level;
- strengthening action to combat THB for the purpose of labour exploitation by involving civil society, trade unions, labour inspectorates and the private sector, and improving the identification of and assistance to victims of THB for the purpose of labour exploitation;
- strengthening prevention and protection measures that address the particular vulnerability of children to trafficking;
- reducing the particular vulnerability of irregular migrants to THB.

69. In addition, GRETA invites the Italian authorities to consider the establishment of an independent National Rapporteur or designate another independent mechanism for monitoring the anti-trafficking activities of State institutions (see Article 29, paragraph 4, of the Convention and paragraph 298 of the Explanatory Report).

70. Further, GRETA invites the Italian authorities to study the implications of the immigration legislation, in particular the offence of illegal entry and stay, for the identification and protection of victims of trafficking, and the prosecution of offenders.

ii. *Training of relevant professionals*

71. According to information provided by the Italian authorities, the Central Operational Service within the Central Anti-crime Directorate of the State Police organises training on issues related to THB for State Police officers in co-operation with international organisations (CEPOL, Europol, Interpol, IOM, ILO) and NGOs (e.g. Save the Children Italia). For the personnel of the Special Units of the Criminal Investigation Squads, specific training seminars with an interdisciplinary approach are organised, including sociological and psychological aspects and the approach to victims. The same applies to the Carabinieri, who have a training department which addresses THB in special sessions at the police academies and also takes part in European projects. Moreover, the topic of THB (in particular organisational structure and *modus operandi* of criminal gangs) is part of the specialised counter-crime training for the Special Operation Units of the Carabinieri (ROS), which lasts 30 days and is held at the Institute for Investigative Techniques (ISTI) four times per year (approximately 100 officials trained). The issue of THB is also dealt with in other training contexts for ROS officers provided by ISTI. Further, CEPOL organises on average two training courses per year with the participation of police officers from different countries. Many of the previously mentioned training courses follow a multi-agency approach and involve a series of key actors such as prosecutors, border and immigration officials, labour inspectors, local authorities and NGOs.

72. According to the Ministry of Foreign Affairs, diplomatic and consular staff receive pre-posting training to enable them, *inter alia*, to recognise potential THB cases within the risk assessments carried out in the framework of the visa application procedures.

73. At the local level, training on the topic of THB is provided to social workers as part of the social assistance projects which include funding from the municipalities for the creation, building and maintenance of the anti-trafficking network. The training costs for the largest public administrations amount to about 500 000 euros (including ordinary funds and Regional Operational Programme of the European Social Fund).

74. In the Veneto region the labour inspectorate has organised training for their officials with a particular focus on THB for labour exploitation. The training started in 2008 and all labour inspectors were trained. The Veneto practice was later recommended in a circular letter by the Ministry of Labour and Social Affairs to other Italian labour inspectorates.

75. The Superior School of the Judiciary provides initial and ongoing training to judges and prosecutors, in co-operation with the Superior Council of Judiciary. GRETA was informed that the School organises on a regular basis courses of professional updating for judges and prosecutors who come into contact with victims of THB.

76. Several NGOs informed GRETA that they were providing training to law enforcement officials, prosecutors and other public officials, for example, in the regions of Abruzzo and Campania. By way of example, the NGO *Cooperativa Sociale Dedalus* in Naples organised a training programme for prosecutors and public officials in the University of Caserta as part of a more general programme on gender issues with an estimated 300 participants.

77. The information obtained by GRETA from the Italian authorities and civil society suggests that there is no systematic approach for the training of public officials with regard to THB, despite the fact that commendable initiatives take place at local level. GRETA stresses the importance of training for all public officials who come into contact with victims of THB, with a view to ensuring that victims are identified, protected and enabled to benefit from their rights under Italian and international law.

78. GRETA notes that Legislative Decree No. 24/2014 transposing Directive 2011/36/EU envisages that compulsory training modules on issues concerning THB are to be included in the training programmes provided to all professionals who may come into contact with victims of THB (police and border police officers, health professionals, public prosecutors, lawyers, labour inspectors, assistance centres' operators).

79. **GRETA considers that the Italian authorities should continue to invest in the training on issues related to THB for different forms of exploitation and the rights of victims of trafficking, for all professionals who may come into contact with victims of THB, in particular immigration officials, law enforcement authorities, labour inspectors, police investigators, prosecutors, judges, social workers, staff of identification and expulsion centres for irregular migrants (CIEs), members of NGOs and lawyers. Training programmes should be designed with a view to improving the knowledge and skills of relevant professionals to enable them to identify victims of trafficking, to assist and protect them, to facilitate compensation for victims and to secure convictions of traffickers.**

iii. Data collection and research

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

81. The most comprehensive statistics are those gathered by the DEO, which runs since 2010 the database SIRIT (*Sistema Informatizzato di Raccolta Informazioni sulla Tratta*, or Computerised system for the collection of information on trafficking in human beings) and contains information on all victims of trafficking who are supported in the framework of the so-called “Article 13” and “Article 18” projects. The data are supplied by the NGOs and public bodies participating in the projects. The database includes information on the victim’s sex, country of origin and form of exploitation. In their comments on the draft GRETA report, the Italian authorities have indicated that in future the SIRIT system will also collect data concerning actions and interventions which are not financed by the DEO. The system will be further developed in collaboration with the National Statistics Institute (ISTAT).

82. The National Anti-Mafia Directorate (DNA) runs a database concerning investigations and criminal proceedings into THB and slavery (Articles 600, 601 and 602 of the CC), on the basis of information provided by the 26 District Anti-Mafia Directorates (DDA). It provides information on the number of criminal proceedings opened annually, the number of suspects, the number of victims and their country of origin. This database is an important tool for prosecutors for identifying trends. However, it does not include information on the type of exploitation involved, nor does it provide information on the outcome of criminal trials and the actual sentences.

83. Separate data is gathered by the Ministry of the Interior through the Police National Electronic Database (CED), which contains data related to police investigations. Currently the data on THB is disaggregated by sex, age and nationality, but not by type of exploitation.

84. GRETA is concerned that the above-mentioned three different sets of data are not comparable, which makes it difficult to obtain a clear picture of the scale of THB in Italy. Further, the data collected by the DEO on “Article 13” and “Article 18” projects involved some double counting (see footnote 3).

85. **For the purpose of preparing, monitoring and evaluating anti-trafficking policies, GRETA considers that the Italian authorities should further develop a comprehensive and coherent statistical system on trafficking in human beings by compiling reliable statistical information from all main actors, and allowing disaggregation (concerning sex, age, type of exploitation, country of origin and/or destination, internal trafficking). This should be accompanied by all the necessary measures to respect the right of data subjects to personal data protection, including when NGOs working with victims of trafficking are asked to provide information for the national database.**

86. There is a considerable amount of research on the phenomenon of THB in Italy, usually deriving from projects funded by the European Union or the civil sector on its own. An upcoming comprehensive report on THB in Italy is entitled “*Punto e a capo sulla tratta*” by Caritas Italy and the CNCA network, in co-operation with the NGOs Gruppo Abele and On the Road, based on information collected by hundreds of private and public entities throughout the country. On 18 October 2013, the European Anti-Trafficking day, the preliminary conclusions and recommendations of this report were published. Further, research on THB is carried out by research institutes,³² academics,³³ trade unions³⁴ and NGOs.³⁵

87. GRETA invites the Italian authorities to continue conducting and supporting research on THB-related issues as an important source of information on the impact of current policies as well as a basis for future measures. Areas where further research is needed, in order to shed more light on the extent of the problem of THB in Italy, include trafficking for the purpose of labour exploitation, internal trafficking, domestic servitude and child trafficking.

iv. International co-operation

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

89. The legal basis for international judicial co-operation is the European Convention on Mutual Legal Assistance in Criminal Matters. A bill which is currently in the process of being adopted provides for the setting up of Joint Investigation Teams (JITs).³⁶ The bill, approved by the Senate on 6 April 2011 and still under parliamentary debate, regulates the setting up of JITs both at the request of the Italian Public Prosecutor and in case the request comes from an authority of a foreign country. In the meantime, through the International Police Co-operation Service, Italy has taken part in various investigation working groups and has had experience with the establishment of bilateral operational protocols and co-operation mechanisms with Germany, France, Switzerland, Romania and Albania. Other similar protocols are currently under implementation with the Netherlands, Poland and the United Kingdom. Furthermore, the Italian authorities have referred to the procedure of exchanging police officers with European and non-European countries during Joint Police Operations.

90. The Italian authorities also have informed GRETA that they use international co-operation channels in THB cases, notably via Europol and Interpol contact points. Italy also takes part in the EU project “EMPACT” (European Multidisciplinary Project against Criminal Threats), which focuses, *inter alia*, on organised crime groups involved in THB.

³² For example, CDS/CENSIS, *Assisting and Reintegrating Children Victims of Trafficking: promotion and evaluation of best practices in source and destination countries*, Work stream 2: Assessment of Programmes for Assisting and Reintegration of Child Victims of Trafficking, Country Report Italy, 2012, available at: <http://www.childrentrafficking.eu/GetMedia.aspx?lang=it&id=3ab575d7eb0242fe8b1a550c4051e948&s=0&at=1>.

³³ For example, Akinyoade, Akinyinka, Carchedi, Francesco, *Cases of severely exploited Nigerian citizens and other forms of exploitation*, Rome, 2012.

³⁴ For example, Flai-CGIL, *Agromafie e caporalato*, 2012, available at: http://www.flai.it/index.php?option=com_content&view=article&id=783:primo-rapporto-agromafie-e-caporalato&catid=50:primo-piano.

³⁵ E.g. Amnesty International, *Exploited Labour: Migrant Workers in Italy's Agricultural Sector*, December 2012, available at: <http://www.amnesty.it/italia-rapporto-sullo-sfruttamento-dei-lavoratori-migranti-in-agricoltura>; Save the Children, *I piccoli schiavi invisibili*, 2013, available at:

http://www.savethechildren.it/informati/comunicati/tratta_e_sfruttamento_save_the_children_in_italia_il_piu_alto_numero_di_vittime_2400_a_frente_delle_9500_in_europa_molti_i_minori_ragazze_dall_est_europa_e_nigeria_ma_anche_ragazzi_egi_ziani_year=2013.

³⁶ Bill S804-841.

91. On a bilateral basis, Italy has concluded several memoranda of understanding, protocols and declarations with the Romanian authorities in the law enforcement and criminal investigation field. These agreements cover migration and the fight against organised crime and include the fight against THB as one of the priorities. In general, the Italian authorities assess as positive the co-operation with Romania. Italy and Romania also carried out a project entitled “*Oltre il Confine*” which involved relevant Romanian ministries, 10 Italian regions, operational bodies and NGOs. The project ran from 2008 to 2012 and aimed at combating THB in Romania and Italy both through preventive actions as well as protection activities and social inclusion of victims.

92. Furthermore, the Italian authorities have referred to the ongoing project ITA.RO (Italy-Romania), which is aimed at fighting Romanian criminal associations involved in facilitating illegal immigration, trafficking in human beings, exploiting prostitution and crimes against property. Since 2006, 14 phases of the project have been carried out, involving the exchange of police officers between the two countries, and the 15th phase is about to start. These high-impact operations have resulted in the dismantling of numerous criminal associations and arresting over 3 200 persons.

93. Nigeria is the source country for most of the victims of THB identified in Italy. Consequently, the Italian authorities have concluded several bilateral agreements with the Nigerian authorities concerning co-ordination between Italian and Nigerian law enforcement agencies, the creation of networks, and the provision of training to NGOs supporting victims. The first agreement was signed in 2003 by the Chief Public Prosecutor and Minister of Justice of the Federal Republic of Nigeria and the Italian Anti-Mafia Public Prosecutor, and the second in 2009 by the Director of the Nigerian Police, the Director of the Italian Police and the Interpol Secretary General. Finally, the third agreement was signed by the Anti-Mafia Public Prosecutor, the Deputy General Director of Public Security and the General Director of Criminal Police with the Nigerian National Agency for Prohibition of Trafficking in Persons (NAPTIP) on 28 April 2010. It is focused on integrated interventions aimed at fighting THB, strengthening the training of police officers and magistrates, sharing good practices and operational strategies, developing information exchange and updating the indicators of THB. The co-operation with Nigeria is also aimed at protecting victims and combating organised crime, with a special focus on training and data collection. It also envisages the social reintegration of victims of THB.

94. Despite the above-mentioned efforts made by the Italian authorities in the area of international co-operation, there are persistent problems when it comes to obtaining information in response to requests made by investigators or undertaking investigative actions in countries of origin. According to the National Anti-Mafia Directorate (DNA), international judicial co-operation in the investigation of THB cases is substantially deficient with non-European countries and totally lacking when it comes to the prosecution of criminal offenses and the protection of victims.³⁷ The two main routes for people smuggling and THB to Italy are the one starting from the Far East (China, Afghanistan, Pakistan and others), passing through Turkey and Greece, and from there by sea to Italy, and the other starting from countries in Sub-Saharan Africa (mainly Nigeria) across the desert of Niger, passing through the Maghreb and then by sea to Italy. Italy does not have judicial co-operation with any of these countries. According to DNA, this leads to the situation that international co-operation against THB exists only within the boundaries of Europe and meaningful criminal investigations against traffickers take place only in European countries. These investigations, however, can only concentrate on the last link in the chain, the exploitation phase, while the leaders of the criminal trafficking organisations remain outside Europe, as do the assets gained by these crimes.

³⁷ Direzione Nazionale Antimafia, *Relazione sulla tratta die esseri umani* (Report on Trafficking in Human Beings, 2013, p. 21.

95. In the field of international development co-operation, the Italian Ministry of Foreign Affairs has initiated and co-funded a number of anti-trafficking programmes, several of which concern Nigeria. The international bodies involved in these programmes were IOM Italy (2001-2002), the IOM office in Abuja (2008-2011), and UNICRI Italy (in 2002-2004, a programme of action against trafficking in minors and young women from Nigeria into Italy for the purpose of sexual exploitation, and, in 2008-2010, a programme on preventing and combating trafficking of minors and young women from Nigeria to Italy). Moreover, Italy has provided funding for programmes for the prevention of child trafficking and the support of victims of THB in several other countries. These programmes were implemented by international organisations, usually IOM and UNICEF, and took place in Africa (Morocco, Nigeria, Senegal), Central America, South Asia (Afghanistan) and South East Asia (Cambodia, Vietnam, Laos).

96. Following the conclusion of a bilateral agreement with Libya, the Italian authorities began implementing in May 2009 a policy of intercepting vessels carrying migrants on the high seas and immediately sending them back to Libya (referred as the “push-back policy”). The European Court of Human Rights in its judgement *Hirsi Jamaa and others v. Italy*³⁸ considered that this policy violated several articles of the European Convention on Human Rights. GRETA is very concerned about the negative effects such push-back policies can have on victims of trafficking. GRETA notes with satisfaction that a suspension of such agreements is in force since 2011 and that the Italian government has indicated in the framework of the implementation of the previously mentioned judgement that the policy of push-backs will not be resumed.³⁹

97. GRETA commends the efforts made by the Italian authorities in the area of international co-operation and invites them to continue developing international co-operation, including through finalising the adoption of legislation regulating the setting up of JITs and exploring further possibilities for co-operation with governmental and non-governmental actors in countries of origin and transit, with a view to prosecuting offenders, assisting victims and preventing THB.

98. Further, GRETA invites the Italian authorities to continue contributing to awareness-raising prevention activities in the main countries of origin of victims of THB found in Italy.

2. Implementation by Italy of measures aimed at preventing trafficking in human beings

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

100. In accordance with the Convention, measures to discourage demand for the services of victims of trafficking, especially women and children, should be understood as a positive obligation on Parties to adopt and reinforce such measures as regards THB for the purpose of any form of exploitation (see paragraph 108 of the Explanatory Report of the Convention). As is stated in the Recommended Principles and Guidelines on Human Rights and Human Trafficking, strategies aimed at preventing THB shall address demand as a root cause of trafficking.⁴⁰

³⁸ Case of *Hirsi Jamaa and others v. Italy*, application No.27765/09, judgment of 23 February 2012, available at: <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-109231>

³⁹ See the website of the Council of Europe’s Department on Execution of Judgments of the European Court of Human Rights: http://www.coe.int/t/dghl/monitoring/execution/reports/pendingcases_EN.asp?CaseTitleOrNumber=hirsi&StateCode=&SectionCode; http://www.coe.int/t/dghl/monitoring/execution/Themes/Add_info/ITA-HirsiJama_fr.asp.

⁴⁰ Principle 4 of Addendum to the report of the United Nations High Commissioner for Human Rights (E/2002/68/Add. 1), <http://www.ohchr.org/Documents/Publications/Traffickingen.pdf>

a. Measures to raise awareness and discourage demand

101. No national information campaign on THB has been conducted in recent years. The last nationwide information campaign advertising the toll-free anti-trafficking helpline took place in 2008. Some local or regional awareness-raising activities have taken place in the framework of the victim assistance programmes financed by the DEO, for instance through advertisement of the national anti-trafficking toll-free helpline and distribution of awareness-raising materials (leaflets, posters). GRETA was informed that 300 000 euros have been allocated annually for the management of the national anti-trafficking toll-free helpline (800 290 290), which employs several cultural mediators speaking different languages who answer calls 24 hours a day (see also paragraph 124). Further, about 200 000 euros have been allocated for other awareness-raising activities carried out in the framework of projects funded by the DEO.

102. By way of example, the Italian authorities have referred to awareness-raising activities in the Emilia Romagna region, where a campaign to alert potential victims of THB was carried out between late 2011 and early 2012 under the slogan: "Are you exploited in the workplace? Are you a victim of violence, threats, blackmail? Call us!". The campaign focused on potential victims of severe labour exploitation and promoted the national toll-free helpline for victims of trafficking. The institutions that implemented the campaign were the regional authorities, the municipalities taking part in the regional "Beyond the Street" network, NGOs affiliated with this network, the Emilia-Romagna Railways (FER) and the public local transport companies. The materials used for the campaign included radio advertisements in Italian and English, broadcast by a network of local radio stations, banners on websites (with one side in English and one part in a second foreign language), cardboard flyers in Italian, English, Chinese, Arabic, Russian and Romanian, and information leaflets (in the previously mentioned languages plus Spanish and French). The flyers and leaflets were distributed on FER trains and in city buses in Piacenza, Reggio Emilia, Modena, Bologna, Ferrara, Rimini and Ravenna, and were also made available in places frequented by the identified target groups, including irregular migrants. The impact of the campaign was evaluated through the number of relevant calls to the toll-free helpline during that period. According to the Italian authorities, similar initiatives and campaigns have been carried out in other regions of the country.

103. The "Beyond the Street" network of the Emilia-Romagna region participated, from 2010 to 2012, in a European Commission funded project entitled "Sensitising the people of Hungary, Sweden, Italy and Germany about the issue of trafficking in human beings as an obstacle to development". The project aimed at implementing preventive measures based on education programmes addressing boys and girls from 14 to 19 years of age in these countries. The objectives were the creation of a documentary on THB, the creation of an educational kit to be used in schools and the organisation of awareness-raising public events.

104. Moreover, in 2010-2011, the Emilia-Romagna region participated in the production of the book "Human Trafficking. Knowing the New Slavery" which is primarily intended for young people aged 14-19 years and explores the interconnections between gender, prostitution, migration and THB. The book was presented at public events in various cities in Emilia-Romagna and was circulated in schools by the local authorities implementing the project.

105. GRETA commends the awareness-raising initiatives at regional and local level, due to action taken by NGOs and local authorities, but nevertheless stresses the importance of designing and launching nationwide campaigns to raise public awareness of different forms of THB and increasing prevention through education in schools.

106. GRETA urges the Italian authorities to develop country-wide awareness-raising activities on all forms of THB. The Italian authorities should plan future information, awareness-raising and education campaigns with the involvement of civil society, on the basis of research and impact assessment. Further, awareness-raising activities should systematically be implemented through the education system.

107. The Convention places in Article 6 a positive obligation on Parties to adopt and reinforce measures for discouraging demand whether as regards sexual exploitation or in respect of forced labour or services or other forms of exploitation. The Italian authorities have not referred to any measures aimed at discouraging demand pertaining to any form of exploitation. There are no plans to criminalise the use of services of a victim with the knowledge that the person is such a victim.

108. With regard to measures aimed at reducing demand for sexual services, the Italian authorities have referred to the administrative tool of the so-called “mayor’s order”. These measures are based on public security law which enables municipalities to declare an emergency anything that might endanger public security and morals in their cities. Under these powers, sex workers and their clients have been subjected to ordinances that permit municipal police to administer fines. Several local authorities have made use of such “mayor’s orders” to counter the presence of street prostitutes. According to the Italian authorities, these orders have proved to be limited in their effectiveness. Representatives of social services and NGOs have indicated that such measures lead to prostitution moving indoors or to other towns or areas and result in losing contact with potential victims of trafficking and making the establishment of new contacts more difficult.

109. Concerning labour exploitation, as noted in paragraph 61, Law No. 148/2011 introduced the crime of “Unlawful gangmastering and labour exploitation” (*intermediazione illecita e sfruttamento del lavoro*) through Article 603-bis of the CC, defined as “conducting organised brokering activities by recruiting workers or organising their working activity with a view to exploiting them, through the use of violence, threat or intimidation, or taking advantage of their vulnerable condition or state of need”.⁴¹ However, in the opinion of lawyers, prosecutors and NGOs, this provision has not reduced demand because it envisages the criminalisation of abusive intermediaries (gangmasters), who in most cases are not Italian nationals, but not of abusive employers.⁴² Moreover, the offence has been formulated in a complicated way, which makes it difficult to apply.

110. GRETA urges the Italian authorities to continue their efforts to discourage demand as a root cause of THB, bearing in mind that such measures should be balanced and not lead to the criminalisation of victims of trafficking. Efforts to discourage demand for the services of victims of trafficking for the purpose of labour exploitation should include reinforcing labour inspections, in particular in sectors at high risk such as agriculture, construction, textile industry, the hotel/catering sector and domestic service, and effective penalties for those who exploit victims of trafficking.

111. Further, GRETA invites the Italian authorities to consider adopting legislative and other measures to criminalise the use of services provided by victims of trafficking with the knowledge that the person is such a victim.

b. Social, economic and other initiatives for groups vulnerable to THB

112. As Italy is primarily a destination and transit country for victims of THB, the Italian authorities provide funding for anti-trafficking activities in countries of origin. As mentioned in paragraph 95, Italy has contributed financially to anti-trafficking projects which have been implemented in partnership with IOM, UNICEF, UNODC and UNICRI, in particular in Afghanistan, Cambodia, Iraq, Morocco, Nigeria, Senegal and countries in Central America. Moreover, as mentioned in paragraph 91, Italy finances projects in Romania aiming at combating THB both through preventive actions as well as by protection activities, the social inclusion of victims and their employment.

⁴¹ The crime is punished with detention from five to eight years and with a fine ranging from 1 000 to 2 000 euros for each of the workers recruited.

⁴² See Amnesty International, *Exploited labour: Migrant Workers in Italy’s Agricultural Sector*, December 2012, p.35.

113. Children, in particular unaccompanied foreign minors, are particularly vulnerable to THB. The UN Committee on the Rights of the Child (CRC) has pointed to the phenomenon of *de facto* stateless children in Italy, among them hundreds of Roma children, and has recommended, *inter alia*, to set comprehensive legislation ensuring the assistance and protection of unaccompanied children.⁴³

114. The Italian authorities estimate that some 150 000 Roma and Sinti currently live in Italy.⁴⁴ During the evaluation visit to Italy, GRETA was informed by NGOs that the number of victims of THB among the Roma was increasing, especially as regards sexual exploitation, including the prostitution of children. There is a worrying trend of children living and working in the street, for example in Naples, including many Roma children. Both the Commissioner for Human Rights⁴⁵ and the European Commission against Racism and Intolerance (ECRI)⁴⁶ point to the marginalisation and discrimination of the Roma in Italy. A major problem is the *de facto* statelessness of many Roma people, including children born in Italy. Another problematic development of recent years was the policy of segregated camps and forced evictions of Roma based on a so-called “Nomad emergency”. A positive step is the adoption in 2012 of the National Strategy for the Inclusion of Roma, Sinti and Caminanti Communities.⁴⁷ GRETA notes that the strategy foresees measures aimed at reducing the vulnerability of these communities, including the establishment of a working group to define possible solutions to overcome *de facto* statelessness and the elaboration of a bill concerning the recognition of Roma and Sinti as a national minority.

115. GRETA notes that immigrants and asylum seekers present a higher risk of falling victim to human trafficking if they are subject to discrimination. The measures referred to in paragraph 61, which criminalise illegal entry and stay, create an environment which contributes to the exploitation of migrant workers. Irregular migrant workers who report abusive working conditions risk not only losing their job, but also being charged with the crime of “irregular entry and stay”.⁴⁸

116. GRETA urges the Italian authorities to strengthen the aspect of prevention through social and economic empowerment measures for groups vulnerable to THB, in particular people of Roma and Sinti origin, undocumented migrants and asylum seekers.

c. Border measures to prevent THB and measures to enable legal migration

117. According to the Convention, without prejudice to international commitments in relation to the free movement of persons, Parties shall strengthen, to the extent possible, such border controls as may be necessary to prevent and detect trafficking in human beings.

118. During the evaluation visit to Italy, GRETA was informed of efforts by the Italian authorities to take action against so-called “mother ships” used to ferry immigrants into international waters and from which smaller boats depart to reach the Italian coast.

⁴³ UN Committee on the Rights of the Child, Concluding observations on the third and fourth periodic report of Italy, CRC/C/ITA/CO/3-4, 31 October 2011, paragraphs 28, 66.

⁴⁴ European Commission against Racism and Intolerance (ECRI) report on Italy (fourth monitoring cycle), CRI(2012)2, adopted on 6 December 2011, published on 21 February 2012, para 82, available at: <http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Italy/ITA-CbC-IV-2012-002-ENG.pdf>.

⁴⁵ Commissioner for Human Rights of the Council of Europe, Report on Italy, 18 September 2012, CommDH(2012)26, paragraphs 61-120.

⁴⁶ European Commission against Racism and Intolerance (ECRI), Report on Italy (fourth monitoring cycle), CRI(2012)2, adopted on 6 December 2011, published on 21 February 2012, paragraphs 82-108.

⁴⁷ National Strategy for the Inclusion of Roma, Sinti and Caminanti Communities, 18 February 2012, available at: http://ec.europa.eu/justice/discrimination/files/roma_italy_strategy_en.pdf.

⁴⁸ Amnesty International, *Exploited labour: Migrant Workers in Italy's Agricultural Sector*, December 2012, p. 37.

119. **GRETA considers that the Italian authorities should make further efforts to detect and prevent THB through border control measures, and in particular:**

- **introduce a checklist to identify potential THB-related risks during the visa application system and provide training to relevant staff on the detection of possible victims of THB;**
- **provide written information to foreign nationals planning to travel to Italy, in a language that they can understand, in order to alert them about the risks of THB, inform them of their rights and where to turn for advice and assistance.**

120. Moreover, according to the Convention, each Party shall take appropriate measures, as may be necessary, to enable migration to take place legally, in particular through dissemination of accurate information by relevant offices, for instance visa and immigration services, on the conditions enabling the legal entry in and stay on its territory. GRETA has not received information on measures taken by Italian authorities to enable legal migration. However, GRETA refers to the report by the UN Special Rapporteur on trafficking in persons, especially women and children, on her mission to Italy, according to which despite the adoption of legislation enabling employers to regularise their informally hired workers, a number of migrants have been requested by their employers to pay an amount of money in order to obtain a residence permit and have their status regularised.⁴⁹

- d. Measures to ensure the quality, security and integrity of travel and identity documents

121. GRETA has not received information from the Italian authorities as regards measures taken to ensure the quality, security and integrity of Italian travel and identity documents in order to prevent their unlawful creation and issue as well as to ensure that they cannot be easily forged, as foreseen in Article 8 of the Convention.

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

- a. Identification of victims of trafficking in human beings

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

123. In Italy, there are no national guidelines or agreed procedures for the identification of victims of THB. The conclusion of Memoranda of Understanding between relevant stakeholders at regional or local level (e.g. police, prosecutors, social services, NGOs) serve the role of a local “referral mechanism”, describing the various steps to identify and assist victims and specifying the role of each institution. Such Memoranda of Understanding often include lists of indicators for the identification of victims of THB. While these Memoranda of Understanding provide examples of good practice (e.g. the Protocol of Teramo referred to in footnote 21), they cannot fill the absence of a coherent national identification and referral mechanism.

⁴⁹ See paragraph 74 of document A/HRC/26/37/Add.4, available at <http://www.ohchr.org/EN/Issues/Trafficking/Pages/Visits.aspx>

124. As noted in paragraph 24, a national toll-free anti-trafficking helpline has been established in Venice. Trained cultural mediators speaking different languages⁵⁰ are available around the clock to provide counselling and information and can refer persons in need to the closest NGO providing assistance to victims of THB. In 2013, 116 out of 592 first calls to the helpline concerned victims of THB and serious exploitation. The most widespread type of exploitation was street prostitution and the most common nationalities of victims were Nigerian and Romanian. Information about the callers was transmitted to Article 13 projects and specific protection action was taken.

125. However, cases of victims of THB reporting themselves to the authorities or NGOs directly are rare because victims are often in an irregular situation. As noted in paragraph 115, the introduction of the offence of illegal entry and stay has had a chilling effect on victims with irregular status and reinforces their vulnerability. Moreover, the exploiters are aware of this effect and know that their risk to be denounced by the victims is low.

126. Possible victims of THB are usually detected by law enforcement officers, NGO outreach workers or social workers. Both the law enforcement agencies and the local services can gather the possible victim's depositions and check if they are in line with the criteria laid down in law. Victims are then referred for assistance to NGOs or religious organisations running "Article 13" and "Article 18" projects (see paragraph 137). GRETA refers to the report of the UN Special Representative on trafficking in persons, especially women and children on her mission in Italy, according to which, in practice, law enforcement officers are often the first point of contact for victims and tend to request a deposition from them before alerting social workers, thereby deciding themselves whether or not a person is a victim of THB and should benefit from assistance.⁵¹ Consequently, identification as a victim of THB and assistance are made conditional on co-operation with the law enforcement authorities.

127. NGOs and social workers are very active when it comes to the detection of victims of trafficking for sexual exploitation among persons involved in prostitution. To this end, they do not only approach those working on the streets, but also proactively seek contact with those working in apartments or other closed areas by screening announcements in newspapers and on the Internet and calling the numbers. NGOs are also active in the identification of THB victims for labour exploitation, by running drop-in centres and establishing contacts with workers at their places of work.

128. The detection of victims of THB for labour exploitation is particularly complicated in Italy as the size of the "informal economy" is quite significant in certain sectors. As the Italian immigration laws do not offer a possibility for legal employment for workers who already are irregularly in Italy, their only possibility of being employed is in the informal economy, very often under exploitative conditions. Economic sectors where the exploitation of high numbers of irregular migrants is common are, for instance, agriculture, the construction sector and the textile industry. It is difficult to get access to these workers and, given that they are numerous, to identify trafficking victims amongst them.

⁵⁰ Italian, English, Spanish, Albanian, Romanian, Russian, Moldovan, Ukrainian, Nigerian, Chinese, Polish, Portuguese, Greek, Arabic, see <http://www.numeroverdeantiratta.org>.

⁵¹ See the report by the UN Special Rapporteur on trafficking in persons, especially women and children, on her mission to Italy, document A/HRC/26/37/Add.4, paragraph 50, available at: <http://www.ohchr.org/EN/Issues/Trafficking/Pages/Visits.aspx>

129. The Labour Inspectorate is responsible for ensuring the correct implementation of all labour and social security regulations. According to the Annual Report on Labour Inspection Activity published by the Ministry of Labour and Welfare in February 2014, there are 3 095 labour inspectors in Italy. Labour inspectors have free access to the premises, buildings and rooms of the inspected entities, can take statements from workers, may request all relevant documentation and seek information from all public offices, labour consultants, employers and social security institutions. However, GRETA was informed that, when it comes to detecting situations of THB, labour inspections lack training and resources. Examples of good practice were given in the Veneto Region where labour inspectors are integrated into the local multi-agency approach and receive training. The effectiveness of labour inspections is weakened by the fact that inspectors are not allowed to enter private properties while hidden, non-registered factories with exploitative practices are often situated on such private estates. Moreover, inspections are often known in advance or the working premises are so widespread, in particular in agriculture, that irregular workers can escape the controls. As noted in paragraph 115, Italian law penalising the irregular stay in Italy hinder workers with an irregular residence status from reporting exploitative conditions to labour inspectors because the inspectors are obliged to inform the immigration authorities about cases of irregular stay.

130. In addition to the Labour Inspectorate, the Carabinieri Command for the Protection of Labour, which is functionally placed under the Ministry of Labour, is tasked with the fight against illegal employment, severe labour conditions and exploitation. It has its headquarters in Rome, as well as four command groups in Milan, Rome, Naples and Palermo, four operational units and 101 Carabinieri inspectorates units at provincial level. There are some 450 Carabinieri officers in this command who have obtained the qualification of labour inspector. They carry out autonomous operations or act in support of other Carabinieri units, police forces or labour inspectorates, in particular if the latter operations could involve risks for labour inspectors. Carabinieri labour inspectors have the power to enter freely at any time of the day or night any workplace without prior notice or judicial warrant. They also have the power to interrogate persons alone, examine documents and seize evidence. Thanks to their double role as officers of the Judicial Police and labour inspectors, these specialised Carabinieri officers are often the first ones to establish contact with potential victims and they have at their disposal a set of tools that are very useful in the early stages of investigating THB offences.

131. According to the Italian authorities, a person cannot be removed from the Italian territory during the process of identification and recognition as a victim of THB. Having said that, GRETA is concerned by the lack of a uniform system for the identification of victims of THB in Italy which creates a risk that large numbers of victims remain unidentified and are not able to exercise the rights provided for by the Convention. This risk is increased by the fact that public officials who come into contact with possible victims of THB lack the necessary skills to identify them as such. This is equally valid for first assistance and reception centres (CPSAs), reception centres for migrants (CDAs), identification and expulsion centres (CIEs) and reception centres for asylum seekers (CARAs), where there is a high probability that victims of THB are amongst the migrants, but there are neither qualified personnel for their identification nor a system or a procedure for the detection of victims of THB. During the evaluation visit to Italy, the GRETA delegation visited the CIE Ponte Galeria near Rome and was concerned about contradicting information on the presence of victims of THB amongst the detainees it received. While the CIE's administration declared they were not aware of such cases, both members of the personnel working directly with detainees and NGOs providing assistance to the persons detained in the CIE reported that cases of identification of THB victims did indeed occur. GRETA is concerned by the absence of clear procedures for the screening of persons placed in CIEs for trafficking indicators, their identification and referral to assistance.

132. The Italian authorities have indicated that in the framework of asylum procedures, the Territorial Commissions, when suspecting a case of a potential victim of THB, may suspend or terminate the procedure for requesting international protection and inform the *Questura*, the Prosecutor's office or an organisation authorised to provide assistance to victims of human trafficking. Legislative Decree No. 24/2014 on the transposition of Directive 2011/36/EU foresees that the administrations dealing with asylum claims and trafficking victims will establish a referral mechanism between the two systems of protection. **GRETA would like to be kept informed of the setting up of this referral mechanism.** GRETA is concerned by the possibility to suspend or terminate the international protection procedure in such cases. **GRETA recalls that pursuant to Article 40, paragraph 4, of the Convention, no measures taken in accordance with the Convention shall affect the rights of individuals under international law, and, in particular, where applicable, the 1951 Convention and the 1967 Protocol relating to the Status of Refugees and the principle of non-refoulement as contained therein.**

133. The identification of a child as a victim of trafficking is carried out by law enforcement officers and social workers, using a multi-disciplinary approach. According to the Italian authorities, the first interview takes place in the presence of a cultural mediator usually provided by specialised NGOs. However, GRETA notes the concerns expressed by the UN Committee on the Rights of the Child (CRC) concerning the lack of a holistic and common approach with respect to unaccompanied children in Italy, including the absence of comprehensive guidelines and legal framework on unaccompanied children.⁵² As already noted in paragraph 64, the disappearance of unaccompanied foreign children arriving in Italy takes alarming proportions.⁵³ GRETA was informed that there are no guidelines on the identification of child victims of trafficking and on age assessment. GRETA has received reports according to which age determination is based on a simple X-ray of the wrist and the use of this technique has resulted in minors being declared adults and detained in an Identification and Expulsion Centre (CIE) together with adults. The Italian authorities have referred to Article 19, paragraph 2, item a, of Legislative Decree No. 286/98, which states that "expulsion from national territory shall not be allowed for foreign nationals under the age of 18, without prejudice to the right to follow the deported parent/foster parent". For this reason, according to the Italian authorities, no children have been detained in Identification and Expulsion Centres (CIE).⁵⁴ Legislative Decree No. 24/2014 stipulates that within six months after its entry into force, a non-regulatory decree of the Minister responsible for equal opportunities shall establish mechanisms for the identification and age determination of unaccompanied minors who are victims of trafficking. **GRETA would like to be kept informed of developments in this respect.**

134. GRETA recalls that the issue of identification is of fundamental importance. Without trafficked people being identified as such, their rights to assistance and protection cannot be ensured. It is therefore vital for the State to ensure that an effective system for proactive identification of victims of trafficking is put in place, irrespective of their nationality and immigration status. Many trafficked people do not always identify themselves as "victims" and are not aware of the legal meaning behind the term. Therefore, the onus of identification lies with the authorities.

⁵² UN Committee on the Rights of the Child, Concluding observations on the third and fourth periodic report of Italy, CRC/C/ITA/CO/3-4, 31 October 2011, paragraph 66.

⁵³ See Report by Maria Grazia Giammarinaro, OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings, following her visit to Italy from 17-18 June and 15-19 July 2013, paragraph 16.

⁵⁴ However, GRETA notes the information contained in paragraph 55 of the report of the UN Special Rapporteur on trafficking in persons, especially women and children, on her mission on Italy, indicating that some of the young Nigerian girls detained in the CIE Ponte Galeria in Rome who declared themselves to be adults might in fact have been minors.

135. GRETA urges the Italian authorities to ensure that all victims of trafficking are properly identified and can benefit from the assistance and protection measures contained in the Convention, in particular by:

- strengthening multi-agency involvement in victim identification by introducing a clear national referral mechanism, defining the roles of all frontline staff who may come into contact with victims of trafficking;
- providing frontline staff with operational indicators, guidance and toolkits to be used in the identification process and train them to use those identification tools in order to ensure that they adopt a proactive and harmonised approach to detecting and identifying victims of trafficking; these indicators should be regularly updated in order to reflect the changing nature of human trafficking and types of exploitation;
- ensuring that law enforcement officials, social workers, labour inspectors, border officers and other relevant actors adopt a more proactive approach and increase their outreach work to identify possible victims of trafficking, in particular as regards forms of exploitation other than sexual (labour exploitation, forced begging);
- paying increased attention to detecting victims of THB among unaccompanied minors and setting up a specific identification mechanism which takes into account the special circumstances and needs of child victims of trafficking, involves child specialists and ensures that the best interests of the child are the primary consideration;
- taking steps to address the problem of disappearance of unaccompanied foreign children by providing suitable safe accommodation and assigning adequately trained legal guardians;
- developing age assessment tools and effectively implement the presumption and the measures foreseen in Article 10, paragraph 3, of the Convention when the age of the victim is uncertain and the measures foreseen in Article 10, paragraph 4, of the Convention if an unaccompanied child is identified as a victim of trafficking;
- improving the identification of victims of trafficking among irregular migrants and asylum seekers, including through clear, binding procedures to be followed and through training of immigration police officers and staff working in first assistance and reception centres (CPSAs), reception centres for migrants (CDAs), identification and expulsion centres (CIEs) and reception centres for asylum seekers (CARAs).

b. Assistance to victims

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

137. The Italian system of assistance to victims of trafficking follows a decentralised approach. Two forms of assistance are foreseen in Italian legislation: a short-term special support programme under Article 13 of Law No. 228/2003 on “Measures against trafficking in persons”, and a long-term protection and integration programme under Article 18 of the Consolidated Immigration Act. The two types of programmes are implemented by NGOs and religious organisations working at regional and local level. The organisations providing assistance to victims of THB have to be enrolled in a register kept by the Ministry of Labour and Social Affairs,⁵⁵ which certifies that they fulfil the requirements to implement such programmes.

138. As noted in paragraph 24, the DEO conducts an annual call for tenders for the implementation of assistance projects for victims of THB. Civil society organisations need a local public partner entity for these programmes, which are often the social services of the municipalities or provinces. The projects are jointly financed by the DEO and the local public body which is the co-operation partner of the NGO. For Article 13 projects, the funding ratio is 80% by the DEO and 20% by the local authority,⁵⁶ and for Article 18 projects it is 70% by the DEO and 30% by the local authority.⁵⁷ According to the DEO, 8 million euros have been allocated annually from the State budget for the funding of assistance projects. Together with contributions from local and regional bodies and EU structural funds, an average of 12.5 million euros per year have been spent in recent years on victim assistance.

139. The short-term assistance projects under Article 13 of Law No. 228 of 2003 offer to victims of THB initial support measures, such as temporary accommodation, health care, counselling and legal assistance in order to enable them to recover physically and psychologically. According to Article 1, paragraph 4, of Presidential Decree No. 237/2005 regulating the implementation of Article 13 of Law No. 228/2003, this type of assistance runs for three months and can be prolonged for another three months. In order to grant the victim access to the programme, the agreement of the competent *Questura* is required. The Italian authorities consider the Article 13 programme to be equivalent to a recovery and reflection period (see paragraph 152).

140. Article 18 of the Consolidated Immigration Act provides that a person who has suffered violence or serious exploitation and whose safety is at risk, is entitled to special protection through a programme of assistance and social integration and the granting of a special residence permit for social protection (see also paragraph 157).⁵⁸ The programme includes social, health, psychological and legal assistance, safe accommodation and the implementation of educational and work inclusion programmes (including literacy and vocational training programmes, job and social inclusion measures, and interventions to facilitate victim’s entry into employment, for instance by way of internships). The assistance programme has an initial duration of six months and may be renewed for an additional year. When the programme is over, the residence permit for humanitarian reasons can be converted into a residence permit for education or for work, which allows the victim to stay in Italy. In order to give all victims of trafficking, regardless of their citizenship, the right to access the programmes of social protection, a new paragraph 6-bis was inserted in Article 18 of the Consolidated Immigration Act in 2007 which stipulates that the provision applies *mutatis mutandis* to nationals of European Union member states.

⁵⁵ Second Section of the National Register of organisations and associations carrying out activities for foreign immigrants, which concerns the entities accredited to carry out Article 13 and Article 18 programmes (Article 42, paragraph 2, of the Consolidated Immigration Act and Article 54 of Presidential Decree No. 394/1999 regulating its implementation).

⁵⁶ Article 2, paragraph 1, of Presidential Decree No. 237/2005 on implementation of Article 13 of Law No. 228/2003.

⁵⁷ Article 25, paragraph 1, of Presidential Decree No. 394/1999 regulating the implementation of the Consolidated Immigration Act.

⁵⁸ Article 18, paragraph 1, of the Consolidated Immigration Act reads: “Whenever police operations, investigations or court proceedings involving any of the offences set out in Articles [*inter alia*, 600 and 601 CC], or whenever the social services of a local administration, in the performance of their social assistance work, identify situations of abuse or severe exploitation of a foreign citizen, and whenever the safety of the foreign citizen is seen to be endangered as a consequence of attempts to escape from a criminal organisation which engages in one of the afore-cited offences, or as a consequence of statements made during preliminary investigations or in the course of court proceedings, the chief of police, acting on the proposal of the Public Prosecutor, or with the favourable opinion of the same Public Prosecutor, may grant a special residence permit enabling the foreign citizen to escape from the situation of abuse perpetrated by the criminal organisation and to participate in a social assistance and integration programme.”

141. When the circumstances set out in Article 18 of the Consolidated Immigration Act are fulfilled, the participation in the programme and the issuing of the residence permit can be granted on the basis of two procedures, which are laid down in more detail in the relevant implementing provision of the Consolidated Immigration Act, Article 25 of Presidential Decree No. 394/1999: the so-called “social path” and “judicial path”. In the first case, the request to the *Questore* for the issuing of a residence permit for reasons of social protection is made by an NGO or public social service. In the second case, the request for issuing a residence permit is made by the public prosecutor in respect of victims who co-operate with investigation and participate in the criminal proceedings (see paragraphs 157-159).

142. The GRETA delegation visited three shelters for victims of THB in the course of the evaluation visit to Italy. The shelter in Padua had five places and was accommodating four young adult victims (one man and three women), three of whom were victims of THB. The shelter in Martinsicuro (Abruzzo) with a capacity of eight was accommodating five female victims of trafficking for sexual exploitation. Both shelters were run by local NGOs and the victims were enrolled in Article 18 projects. The third shelter visited by GRETA was run by a religious organisation in Adelfia (Puglia) and was accommodating two women victims of THB. All shelters seen by the GRETA delegation were in a very good condition and provided high quality accommodation and services to the hosted persons.

143. There are no projects specifically designed for child victims of trafficking in Italy. Child victims are assisted as part of the general child protection system, through projects for children in difficulty or unaccompanied children. Foreign children enjoy the same rights as children of Italian nationality, which includes access to education, health care and the job market when they reach the age of 16. Children cannot be expelled from the country and unaccompanied foreign children are appointed guardians. There are, however, concerns that the existing procedures for appointing guardians for unaccompanied children are unevenly applied across regions of Italy.⁵⁹ The support for child victims of trafficking is decided after an assessment of the individual case. There are no specialised shelters available for child trafficking victims. On an individual basis, it is decided whether child victims of trafficking are accommodated in facilities for children in need or with young adults in shelters for trafficking victims (under “Article 13” or “Article 18” projects).

144. GRETA welcomes the Italian legislation and practice of assisting victims of THB and notes that a high number of victims of THB are supported and given the possibility to stay in Italy and integrate into Italian society (some 26 000 people since 1999). GRETA also commends the work of civil society organisations and local actors who provide assistance to victims. However, GRETA notes that some aspects of the current system for assistance are putting into question its effectiveness.

145. One phenomenon that runs against the spirit of the system is the manner in which the two “paths” of the Article 18 programme are being handled. GRETA was informed that in practice the granting of residence permits under Article 18 and consequently the availability of assistance depends on the victim's willingness to co-operate in criminal proceedings (see also paragraph 160).

⁵⁹ See UN Committee on the Rights of the Child, Concluding observations on the third and fourth periodic report of Italy, CRC/C/ITA/CO/3-4, 31 October 2011, paragraph 66.

146. As explained in paragraph 58, the victim assistance system is based on the approval of projects on an annual basis. GRETA notes that the DEO has managed to keep the available funding at a constant level in times of public spending cuts. GRETA stresses that the funding provided for Article 13 and Article 18 projects should be adapted to the real needs. NGOs informed GRETA that it is difficult to work on the basis of annual projects instead of following an approach that would allow them to plan the services for several years ahead in a sustainable manner. Moreover, GRETA was informed of cases where the state funding was provided very late (e.g. the funds for 2012 were paid at the end of 2013) and where the contributions from the local authorities were not paid at all. Given that most NGOs implementing assistance projects are small associations, such delays can have severe effects on the sustainability of assistance provided to victims and threaten the NGO's existence.

147. As regards male victims of THB, the majority of them are victims of labour exploitation. GRETA was informed that victims of labour exploitation are not systematically granted a residence permit under Article 18 (see paragraph 162) which limits their access to assistance programmes. When it comes to accommodation, there are a number of shelters available for male victims of THB, but they do not exist in sufficient numbers in all parts of Italy. Another problem related to victims for labour exploitation is that many of them want to work and earn money. They often lose patience and do not want to wait until they receive a work permit. Such victims do not complete the Article 18 programmes, their residence permit is withdrawn and they find themselves again in a position of high vulnerability.

148. Legislative Decree No. 24/2014 transposing EU Directive 2011/36 envisages the merging of Article 13 and Article 18 projects in one single "programme of emergency, assistance and social integration".⁶⁰ Within six months of entry into force of this legal act, a non-regulatory decree of the Minister responsible for equal opportunities shall define this programme and the relevant implementing procedures. In their comments to the draft GRETA report, the Italian authorities have indicated that this provision is aimed at improving the co-ordination and effectiveness of anti-trafficking measures, avoiding duplication of effort, as well as improving the assistance to, and social integration of, victims. The single programme will guarantee to victims board, lodging and health care on a transitional basis and, subsequently, the continuation of assistance and their social integration and inclusion.

149. **GRETA urges the Italian authorities to:**

- **ensure that the provision of assistance to victims of THB is not linked to the victim's co-operation with the investigation and participation in criminal proceedings;**
- **create specific assistance projects and shelters for child victims of THB, taking due account of their special needs and the best interests of the child.**

⁶⁰ With the entry into force of Legislative Decree 24/2014, a new paragraph 3bis has been inserted into Article 18 of the Consolidated Immigration Act, stipulating that "Based on the National Action Plan against trafficking and exploitation of human beings, (...) a unique programme of emergence, assistance and social integration guaranteeing, on a transitional basis, adequate board and lodging and health assistance, in accordance with Art. 13 of Law No. 228 of 2003 and, subsequently, the continuation of the assistance and social integration, in accordance with paragraph 1 of this article, shall apply to the foreigners and citizens specified in paragraph 6-bis of this article, who are victims of the offences provided for in Articles 600 and 601 of the Criminal Code, or who fall under the case provided for in paragraph 1 of this Article" (unofficial translation provided by the Italian authorities).

150. **Moreover, GRETA considers that the Italian authorities should:**

- **evaluate the funding needs of assistance programmes and adapt the respective resources if necessary;**
 - **provide long-term funding for civil society organisations that run victim assistance projects, subject to quality controls and evaluation in order to ensure the continuity of assistance;**
 - **ensure that there are sufficient places in shelters for male victims across Italy.**
- c. Recovery and reflection period

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

152. The recovery and reflection period provided for under the Convention is not expressly laid down in Italian law. According to the Italian authorities, the “special support programme” under Article 13 of Law No. 228/2003 on “Measures against trafficking in persons” fulfils the purpose of such a period. Under this programme, presumed victims of THB have access to accommodation, food and health care. According to Article 4 of Presidential Decree No. 237/2005 regulating the implementation of Article 13 of Law No. 228/2003, the special assistance programme has a duration of three months and can be extended for another three months. The Article 13 programme serves as a transition period for preparing the inclusion of a victim into a social assistance programme under Article 18 of the Consolidated Immigration Act. As noted in paragraph 148, Legislative Decree No. 24/2014 provides for a single support programme, but it does not explicitly define the recovery and reflection period.

153. According to the figures submitted to GRETA by the Italian authorities, 363 persons benefitted from Article 13 programmes in 2013, 971 in 2012 and 700 in 2011. GRETA was informed that, in practice, victims benefitting from this programme are not expelled. There is, however, no legal provision explicitly prohibiting the authorities from doing so.

154. GRETA notes that the purpose of the Article 13 programme is not clearly stated as in the Convention, i.e. to enable possible victims of trafficking to escape the influence of the traffickers and/or to take an informed decision on co-operating with the competent authorities.

155. GRETA urges the Italian authorities to review the legislation in order to ensure that the recovery and reflection period provided for in Article 13 of the Convention is specifically defined in law and that all the measures of protection and assistance envisaged in Article 12, paragraphs 1 and 2, of the Convention are made available during this period. It should be made clear that victims benefitting from the recovery and reflection period cannot be expelled from the Italian territory, that the enforcement of expulsion orders need to be suspended in the meantime, and that the recovery and reflection period is not conditional on the victim’s co-operation with the law enforcement authorities.

- d. Residence permits

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

157. In Italy, Article 18 of the Consolidated Immigration Act provides for the granting of a residence permit for social protection to victims of trafficking. The issuing of the permit is conditional on the person's participation in an assistance and social integration programme. There are two ways to be granted a residence permit. Firstly, the "social path", when NGOs or public social services that have discovered a situation of violence or serious exploitation against a foreign national consider that the person is a trafficking victim and request the granting of a residence permit by the *Questura*.⁶¹ In this case, the trafficked person is not obliged to co-operate in the criminal proceedings. In practice, however, the victim is expected to give information ("statement") to law enforcement agencies through public social services or accredited NGOs. The *Questura* takes the decision to grant the residence permit on the basis of an autonomous assessment of the actual situation of the foreigner and the reliability of the denounced facts. To this end, it may also request information from the judicial authorities and other police services.⁶² According to Office Circulars of the Minister of Interior, it is not even required that the *Questura* obtains the agreement or opinion of the public prosecutor before releasing the residence permit even if in practice this is regularly the case.⁶³

158. Secondly, the "judicial path", when the victim decides to co-operate with the police and prosecution in the framework of criminal proceedings. In this scenario, the public prosecutor makes the request for the issuing of a residence permit to the *Questura*.⁶⁴ If it is necessary for the conclusion of the criminal proceedings, the residence permit can be extended beyond 18 months accordingly.

159. The residence permit issued under Article 18 has a duration of six months and may be renewed for one year or a longer period, e.g. the time necessary to complete criminal proceedings against perpetrators. According to information provided by the Italian authorities, the number of residence permits issued for "humanitarian/social protection reasons" under Article 18 of Legislative Decree 286/98 was 440 in 2012, 361 in 2013 and 106 until 30 April 2014. The number of residence permits issued for "humanitarian/work exploitation reasons" under Article 18 was 80 in 2012, 20 in 2013 and three until 30 April 2014.

160. GRETA was informed that there are significant discrepancies in the practice of offering the "judicial" and "social path" as equally valid ways to obtain a residence permit between the regions, but sometimes even within the same region. Many *Questura* reportedly do not offer the "social path" to victims of THB and try to direct them into the "judicial path", either by not correctly informing them about the available alternatives or by simply refusing them the "social path" even if the requirements are fulfilled. In this way, the granting of a residence permit under Article 18 depends in practice on the victim's ability to take part in criminal proceedings by giving evidence for the arrest of the perpetrator, in contradiction of the Italian law.

⁶¹ Article 27, paragraph 1, lit. a), of the Presidential Decree No. 394/1999 regulating the implementation of the Consolidated Immigration Act.

⁶² See, for example, Regional Administrative Tribunal of Piedmont, Turin, Section II, 15 March 2009, no. 1421; Regional Administrative Tribunal of Umbria, Perugia, Section I, 6 April 2006, no. 210; Council of State, Section VI, 10 October 2006, no. 6023.

⁶³ The most recent Office Circulars of the Minister of the Interior in this regard dates 28 May 2007 and is entitled "Article 18 of the Consolidated Immigration Act; residence permit for reasons of social protection".

⁶⁴ Article 27, paragraph 1, lit. b), of the Presidential Decree No. 394/1999 regulating the implementation of the Consolidated Immigration Act.

161. According to the Italian authorities, the victim is not obliged to leave Italy once the social programme is over. The residence permit can be converted into a residence permit for education or work, allowing the victim to remain in Italy. The conversion into a work permit, however, is conditional on an employment contract. GRETA was informed about difficulties in finding a job for the persons concerned after the programme, in particular in times of economic crisis. There is therefore a risk that the trafficking victim falls back into a situation of vulnerability once the social assistance and integration programme is over. According to information provided by the Italian authorities, after the victims have completed the social assistance programme under Article 18 and obtained a humanitarian residence permit, a new individual programme is developed through which victims can be provided with a work permit, job, housing and periodic meetings with the association during which psychological interviews, assessment and discussions on the situation of the victim take place.⁶⁵

162. GRETA was informed that it is still very rare that the residence permit foreseen in Article 18 of the Consolidated Act on Immigration is granted to victims of trafficking for labour exploitation. In July 2010 Italy adopted Legislative Decree No. 109/2012 (referred to as “Rosarno Law”) which introduced some aggravating factors to the crime of employing irregular migrant workers, including the case of “particularly exploitative working conditions”, as well as the additional financial sanction of payment of the cost of return of the worker to their country of origin.⁶⁶ A new paragraph 12-quater was introduced to Article 22 of the Consolidated Immigration Act, which provides for the possibility of granting a residence permit to foreign persons having been subjected to specific forms of labour exploitation. However, the exploitation has to be in one of the aggravated forms foreseen in Article 603-bis, paragraph 3, of the CC (i.e. at least three persons are concerned, or at least one of the workers concerned is less than 16 years old, or the person is exposed to serious dangers related to the characteristics of work or the working conditions). Moreover, this possibility only offers a “judicial path” to the exploited person, i.e. it is issued by the *Questore*, on a proposal or with the approval of a public prosecutor, to a foreigner who has submitted a complaint and cooperates in criminal proceedings brought against the employer. The residence permit has a duration of six months and may be renewed for one year or for a longer period depending on the necessity of the criminal proceedings.

163. GRETA welcomes the possibility for victims of trafficking to be granted a residence permit both on the basis of their personal situation (“social path”) and when co-operating with the authorities (“judicial path”). **GRETA invites the Italian authorities to take steps to ensure that victims of THB can fully benefit in practice from the right provided under Italian law to obtain a renewable residence permit regardless of the form of exploitation they have suffered, including by systematically informing victims, in a language they understand, about the two paths leading to a residence permit and offering both paths in an equal manner.**

e. Compensation and legal redress

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

⁶⁵ GRETA notes, however, that the UN Special Rapporteur on trafficking in persons, especially women and children mentions at paragraph 62 of her report that when she visited Centres for Identification and Expulsion (CIE), several persons stated that they had been arrested while attempting to renew their social residence permits under Article 18.

⁶⁶ Legislative Decree No. 109 of 16 July 2012 transposing Directive 2009/52/EC of 18 June 2009, providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals.

165. According to Article 74 of the Italian Code of Criminal Procedure, victims of THB may file a request for compensation during the penal procedure. The judge can decide on the amount of compensation, or just decide that the victim has a right to compensation without fixing the precise amount, or decide on the amount of an advance payment to be made to the victim. In the latter two cases the victim has to bring a civil action to obtain a decision on the final amount. The advance payment has the advantage that it is immediately enforceable whereas in the case of the criminal judge deciding on the final amount, the victim would have to wait for the judgement to become final. A problem which is often faced is that no compensation can be obtained from the perpetrators because they have no assets in Italy.

166. Until the entry into force of Legislative Decree 24/2014, there was no state fund for the compensation of victims of THB in Italy. This meant that such victims had no alternative possibility for seeking compensation if it could not be obtained from the perpetrators. Legislative Decree 24/2014 introduced such a possibility by amending Article 12 of Law No. 228/2003. This article provides for the setting up of a “fund for anti-trafficking measures” to finance support and social integration programmes for victims of THB, and shall henceforth also be used for the compensation of victims. The compensation is limited to 1 500 euros per victim. The request for compensation has to be submitted within five years of a judgment recognising the right to compensation. When introducing the request, the victim needs to prove that he/she has not received compensation from the offender. If the perpetrator of the crime is unknown, the victim can make the request within one year from the order of closing the relevant criminal procedure.

167. GRETA was informed that it is often difficult for victims of THB to get access to legal aid. In many cases this is due to the legal provision fixing a maximum income of the victim for having a right to legal aid. In practice, foreign victims are obliged to prove not only the income they receive in Italy, but also in their countries of origin, which is often extremely difficult and sometimes impossible.

168. Concerning legal aid for child victims of trafficking, Law No. 172/2012 on the ratification of the Council of Europe Convention on Protection of Children against Sexual Exploitation and Sexual Abuse introduced a new paragraph 4 ter to Article 76 of the Consolidated Act on court costs. It stipulates that child victims of certain offenses, including the THB-related Articles 600, 601 and 602 of the CC, can be granted access to free legal aid without having to prove a certain income.

169. GRETA was informed about a few cases where victims obtained compensation from the traffickers⁶⁷, but in general, successful compensation claims seem to be the exception rather than the rule. Incomplete information about their rights, insufficient legal assistance due to lack of funds within the assistance programmes, difficulties to obtain free legal aid and the length of legal proceedings have dissuasive effect on victims to pursue their right to compensation.

170. **GRETA urges the Italian authorities to adopt measures to facilitate and guarantee access to compensation for victims of trafficking, and in particular to:**

- **ensure that victims of trafficking are systematically informed in a language that they can understand of the right to seek compensation and the procedures to be followed;**
- **ensure that victims have effective access to legal assistance;**
- **enable victims of trafficking to exercise their right to compensation by ensuring their effective access to legal aid by derogation from the income limit.**

⁶⁷ For example, the decision of L'Aquila High Court of 25 May 2012 to grant compensation to 17 Nigerian women victims of THB amounting to 50 000 euros per victim. Available at: <http://ec.europa.eu/anti-trafficking/Legislation+and+Case+Law/Case+Law/Sahel+case;jsessionid=SNmdS0fJYLvTTW23QhLBLqj1YNmNySHk24fwNLLtgzf7LdLRj4Jw!-1752337833>

171. **GRETA also invites the Italian authorities to reconsider whether the envisaged maximum amount of 1 500 euros of compensation from the state fund corresponds to the severe human rights violations victims of THB suffer and the cumbersome procedural path they have to follow until they are granted compensation.**

f. Repatriation and return of victims

172. Article 16 of the Convention requires Parties to establish repatriation programmes which aim at avoiding re-victimisation and involve relevant national or international institutions and NGOs, as well as to make efforts to favour the reintegration of victims into the society of the State of return. Parties must also make available to victims of trafficking contact information or structures that can assist them in the country of return, such as law enforcement offices, NGOs, legal professionals and social welfare agencies. The return of victims of trafficking must preferably be voluntary and needs to be carried out with due regard for the rights, safety and dignity of the person and for the status of any legal proceedings related to the fact that the person is a victim of THB. Furthermore, a victim may not be returned where such action would be in contravention of the State's obligation of international protection, recognised in Article 40(4) of the Convention.

173. According to the Italian authorities, assisted voluntary return of victims of THB is carried out by NGOs in line with the internal law and with funding provided through the assistance projects. The current voluntary return procedure provides for a risk assessment and case-by-case evaluation that takes place prior to the return and is followed by a verification of the assistance programme in the country of return six months after the return took place.

174. Moreover, the Italian authorities have commissioned IOM to run a project for the assisted voluntary return and reintegration of victims of trafficking, funded by the Ministry of the Interior. This includes pre-departure counselling and post-return reintegration. According to IOM, 300 victims of THB have benefitted from assisted voluntary return since 2004.

175. **GRETA urges the Italian authorities to adopt a clear legal and policy framework for the return of trafficked persons. In this context, the Italian authorities should take steps to:**

- **ensure that the return of victims of trafficking is conducted with due regard for the rights, safety and dignity of the person and the status of legal proceedings; this implies informing victims of trafficking about existing programmes, protecting them from re-victimisation and re-trafficking and, in the case of children, fully respecting the principle of the best interests of the child;**
- **make efforts to develop co-operation with countries of origin of victims of trafficking in order to ensure proper risk assessment and safe return of victims, as well as their effective reintegration;**
- **ensure compliance with the *non-refoulement* obligation under Article 40, paragraph 4, of the Convention.**

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

a. Substantive criminal law

176. Pursuant to Article 18 of the Convention, Parties have the obligation to establish THB as a criminal offence when committed intentionally. Further, the Convention requires Parties to consider taking measures to criminalise the use of services which are the object of exploitation, with the knowledge that the person is a victim of THB (Article 19). In addition, forging travel or identity documents, removing, concealing or destroying them, as well as procuring or providing them, must also be established as criminal offences, when committed intentionally and for the purpose of enabling THB (Article 20).

177. Italian legislation establishes a single criminal offence for trafficking in human beings by virtue of Article 601 of the CC which has to be read in conjunction with Article 600 of the CC ("Placing or holding a person in condition of slavery or servitude"). The basic offences of Articles 600 and 601 are both punishable by imprisonment from eight to 20 years.

178. Some of the aggravating circumstances are laid down in an identical wording in paragraph 3 of Article 600, paragraph 2 of Article 601, and paragraph 2 of Article 602 of the CC. These paragraphs provide for an increase in the penalty by a third to a half if the offences are directed against a child or if they are intended for the exploitation of prostitution or aimed at the removal of organs.

179. Moreover, Article 602 ter of the CC lays down a long list of aggravating circumstances for various offences. The article was introduced by Law No. 108/2010 concerning the Ratification and execution of the Council of Europe Convention on Action against Trafficking in Human Beings, and was later modified by Law No. 172 of 1 October 2012 providing for the ratification of the Council of Europe Convention on the protection of children against sexual exploitation and sexual abuse. A certain number of aggravating circumstances listed in Article 602 ter of the CC refer to Articles 600, 601 and 602 of the CC and provide for an increase in the penalty of between one third and two thirds and are pertinent if:

- the offence is to the detriment of a person under 16 years (increase of a half to two thirds) or under 18 years of age (increase of one third to a half);
- the offence is committed against three or more persons;
- the offence led to a serious danger for the life or the physical or mental integrity of the injured person;
- the offence is committed by administering alcoholic or narcotic substances, drugs, or substances in any case harmful for the physical and mental health of a minor;
- the offence is committed by an ascendant, an adoptive parent, or their spouse or live-in partner, by the spouse or by relatives by marriage within the second degree, by relatives up to the fourth collateral degree, the guardian or a person to whom the minor has been entrusted for purposes of treatment, education, instruction, supervision, custody, or work, or by public officials or persons otherwise charged with a public service in the exercise of their functions, or where the offence is committed to the detriment of a minor in a state of disability or mental defect, occurred naturally or provoked.

180. Further, the penalties for several offenses concerning the falsification of official documents by public officials or private persons are increased if committed in order to carry out or facilitate the crimes envisaged by Articles 600, 601 and 602 of the CC. GRETA notes that two aggravating circumstances included in Article 24 of the Convention are omitted from the text of these articles, namely when the offence is committed by a public official in the performance of his/her duties and when the offence was committed within the framework of a criminal organisation. The Italian authorities have referred to Article 61, paragraph 1, subparagraph 9, of the CC, which provides for a common aggravating circumstance, applicable to all criminal offences, of “having committed the act through abuse of the powers or violation of the duties pertaining to a public office or a public service or to the position of minister of a religion”.

181. Other criminal offences relevant to action against human trafficking are Article 603-bis of the CC on “Unlawful gangmastering and labour exploitation” and Article 600-octies of the CC entitled “Use of children for begging” with penalties up to three years of prison for whoever makes a child younger than 14 years beg.

182. According to the Italian authorities, accessory sanctions are also foreseen in Italian law, for instance disqualification from holding public offices, either permanently or for five years, depending on whether the imprisonment sentence exceeds three years or not.

183. Articles 477, 480, 482 and 485 of the CC criminalise the conducts stipulated in Article 20 of the Convention (forging travel or identity documents, removing, concealing or destroying them, as well as procuring or providing them) and, where they are carried out in order to commit the offence of THB, the penalties are increased by up to one-third (Article 61, paragraph 1, subparagraph 2, of the CC).

184. With regard to the use of the services of a person who is a victim of trafficking by third persons who are aware of that person’s condition, Italian law does not establish this as a specific criminal offence, although in some cases it could constitute participation in the criminal offence of trafficking.

185. According to the authorities, Italian law provides for the administrative liability of legal persons, corporations and associations even without legal personality, with reference to the criminal offences laid down under Articles 600, 601 and 602 of the CC, whereby the relevant undertaking is liable to a fine. The Italian authorities have not referred to any cases in which legal persons have been held liable for THB offences.

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

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

187. There is no specific provision in Italian law on the non-punishment of victims of trafficking. The Italian authorities have referred to Article 54 of the CC, which provides that a person is not punishable for a criminal offence committed in a state of necessity, i.e. if he/she has been forced to commit the offence under violence or threats. According to the Italian authorities, if a victim of THB is obliged or compelled to do something illegal during the exploitation phase, he/she could be considered to be in a “state of necessity” and would not be punishable.

188. Further, Article 111 of the CC provides that anyone who makes a person who is not criminally liable or not punishable commit a criminal offence, is liable for the offence committed and the aggravating circumstances provided for in Article 112 of the CC can also be applied. Finally, Article 611 of the CC punishes anyone who uses violence or threats against someone to make that person commit a criminal offence.

189. There are usually no problems in cases where a victim has officially been identified and when the exploitation has been proved in a criminal procedure against the traffickers. However, GRETA is concerned by reports indicating that when the exploitative situation is not officially established or remains vague, persons who are victims of THB are convicted of criminal offences, for example purse snatching, pickpocketing or drug smuggling. The non-punishment clause is reportedly often not applied for offences that are typically linked to the situation of being trafficked, such as illegal entry or presence in the state territory, or use of a false identity or false identity documents. Such convictions can have negative consequences for victims of THB as this hinders their identification and because some *Questore* do not issue residence permits to persons charged or convicted for criminal offences. GRETA refers to the report by the UN Special Rapporteur on trafficking in persons, especially women and children, who has stressed that the criminalisation on irregular migration also leads to the criminalisation of victims for crimes committed while being trafficked and for which they should not be held liable.⁶⁸

190. **GRETA urges the Italian authorities to ensure compliance with Article 26 of the Convention through the adoption of a provision on non-punishment of victims of trafficking for their involvement in unlawful activities, to the extent that they were compelled to do so, or by developing relevant guidance. Public prosecutors should be encouraged to be proactive in establishing if an accused person is a potential victim of trafficking and to consider trafficking in human beings as a serious violation of human rights. While the identification procedure is ongoing, potential victims of trafficking should not be punished for immigration-related offences.** Reference is made in this context to the recommendations on non-punishment for legislators and prosecutors contained in the paper issued by the OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings in consultation with the Alliance against Trafficking in Persons Expert Co-ordination Team.⁶⁹

c. Investigation, prosecution and procedural law

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

192. In Italy, legal proceedings concerning THB are initiated *ex officio* by the competent public prosecutor, namely the District Anti-mafia prosecutor.

193. Pursuant to Articles 91 and following of the CCP, NGOs that have as their primary purpose the promotion of human rights as well as the protection of victims of trafficking may participate as a civil party in criminal proceedings against traffickers. The exercise of the procedural rights of these NGOs is subject to the consent of the victim of the criminal offence charged, and requires that a "notice of intervention" is submitted to the proceeding authority.

⁶⁸ See the report on the UN Special Rapporteur on trafficking in persons, especially women and minors, on her visit to Italy, document A/HRC/26/37/Add.4, paragraph 37, available at: <http://www.ohchr.org/EN/Issues/Trafficking/Pages/Visits.aspx>

⁶⁹ <http://www.osce.org/cthb/101002>

194. GRETA was informed by the Italian authorities that comprehensive special investigation techniques may be used in cases concerning THB. Law enforcement authorities may resort to wiretapping, interception of e-mail and faxes, bugging, video surveillance, monitoring and freezing of bank accounts. Under Article 9 of Law No. 146/2006 the use of undercover agents is possible in relation to a number of offences, including slavery, THB, child prostitution and pornography, smuggling of immigrants, and exploitation/solicitation of prostitution. As a general rule, a court order is necessary to allow the use of special investigative techniques; however, in urgent cases, the public prosecutor is entitled to issue a provisional order for such measures, which is to be confirmed by the competent judge within 48 hours.

195. According to figures provided by the National Anti-Mafia Directorate, the number of criminal proceedings related to Articles 600, 601 and 602 of the CC was 214 in 2012 (in respect of a total of 484 perpetrators); 143 proceedings were based on Article 600, 66 on Article 601, and five on Article 602. In 2011, a total of 228 criminal proceedings were initiated under Articles 600, 601 and 602 of the CC, involving 774 suspected perpetrators; in 2010, 229 proceedings against 479 suspected perpetrators; and in 2009, 271 proceedings against 1 072 offenders.

196. The data collected by the National Anti-Mafia Directorate does not contain the number of convictions but the Italian authorities have indicated that there were 14 convictions for THB in 2010 and nine in 2011. GRETA is concerned that the conviction rates are very low. Reference is made in this respect to the report by the UN Special Rapporteur on trafficking in persons, especially women and children, on her mission to Italy, according to which investigations are lengthy and expensive, the victim's initial statement is often not admissible in court and the prosecution has to gather substantial evidence prior to the court hearing.⁷⁰

197. GRETA urges the Italian authorities to strengthen their efforts to ensure that crimes related to THB for all types of exploitation are proactively investigated and prosecuted promptly and effectively, leading to proportionate and dissuasive sanctions.

d. Protection of victims and witnesses

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

199. According to the Italian authorities, victims of trafficking are provided with accommodation in shelters managed by NGOs or local authorities within the framework of assistance programmes with the aim of protecting them against acts of revenge or violence by perpetrators or exploiters. During the investigation and trial for THB offences, prosecutors from the District Anti-Mafia Directorates can apply all the tools of the anti-mafia legislation in respect of victims and witnesses of THB, such as armed escort, hearing through a video-conference link, and trial closed to the public in case of minors. Identity change is also possible if there is a major risk for the victim.

⁷⁰ See paragraph 65 of document A/HRC/26/37/Add.4, available at: <http://www.ohchr.org/EN/Issues/Trafficking/Pages/Visits.aspx>

200. Witness protection measures are laid out in Law 82/1991, as amended by Law 45/2001. The protective measures, which apply to witnesses and their family members, include, *inter alia*, physical protection, temporary placement in a safe location, permanent relocation, concealment or change of identity, provision of financial or social support, medical and psychological assistance. The decision to admit a person into the witness protection programme is taken by the Central Commission for the Development and Implementation of Protection Programmes, upon a proposal by the prosecutor responsible for the criminal case. The main criterion for granting protection measures is that the witness or his/her close relatives are under serious threat due to their testimony. The Central Witness Protection, within the Criminal Police Central Directorate, is responsible for implementing witness protection programmes.

201. GRETA notes that, according to the report by the UN Special Rapporteur on trafficking in persons, especially women and children, on her mission to Italy, in practice protection is rarely available to victims of THB. Further, she refers to information on pressure and threats made to victims' families in order to force submission to exploitation.⁷¹

202. GRETA considers that the Italian authorities should make full use of all measures available to protect victims and witnesses of THB and to prevent intimidation during the investigation and during and after the court proceedings.

5. Concluding remarks

203. GRETA welcomes the steps taken by the Italian authorities to develop the legal framework for combating trafficking in human beings and provide long-term assistance to victims of trafficking. The provision in law of a residence permit on social protection grounds is a sign of a victim-centred approach. The involvement of civil society is an important aspect of Italy's response to human trafficking and GRETA commends the efforts at local and regional level to create networks for detecting and assisting victims of trafficking.

204. While GRETA acknowledges the important steps taken to combat human trafficking in Italy so far, a number of challenges remain to be tackled through legislative, policy or practical measures in order to meet the requirements of the human rights-based approach outlined in paragraphs 36-39.

205. The commendable efforts and networks at local level need to be adequately supported at national level, through improved co-ordination of all stakeholders and the adoption of a comprehensive national action plan against THB. GRETA stresses the importance of involving NGOs and other members of civil society in the development and implementation of anti-trafficking policy, including the evaluation of anti-trafficking efforts.

206. Additional measures should be taken to raise public awareness and discourage demand for the services of trafficked persons, for all forms of exploitation, in partnership with the private sector and civil society, and to strengthen prevention and protection measures that address the particular vulnerability of children to trafficking. GRETA draws attention to the need for adapting existing anti-trafficking policies to include measures targeted at combating trafficking for the purpose of labour exploitation and addressing the negative consequences of the criminalisation of irregular migration for victims of trafficking.

⁷¹ See paragraphs 63 and 64 of document A/HRC/26/37/Add.4, available at: <http://www.ohchr.org/EN/Issues/Trafficking/Pages/Visits.aspx>

207. Furthermore, GRETA stresses the importance of ensuring that all victims of trafficking are identified as such and can benefit from the assistance and protection measures contained in Italian law and the Convention. Efforts to proactively identify victims of THB amongst asylum seekers, irregular migrants and unaccompanied foreign children need to be significantly increased. Securing long-term funding for victim assistance and protection programmes is indispensable for the sustainability of the assistance system. Efforts should also be strengthened to ensure that victims of trafficking have effective access to compensation and are not punished for their involvement in unlawful activities, to the extent that they have been compelled to do so.

208. Strengthening the effectiveness of investigations and prosecutions of human trafficking-related offences, with a view to securing proportionate and dissuasive sanctions, is another area where further action is needed in order to fully apply the human rights-based and victim-centred approach promoted by the Convention.

209. All professionals who may come into contact with victims of human trafficking, including law enforcement officials, prosecutors, judges, labour inspectors and social workers, need to be continuously informed and trained about the need to apply a human rights-based approach to action against human trafficking on the basis of the Convention and the case-law of the European Court of Human Rights.

210. GRETA invites the Italian authorities to keep it informed on a regular basis of the developments in the implementation of the Convention and looks forward to continuing the good co-operation in further efforts in achieving the purposes of the Convention.

Appendix I: List of GRETA's proposals

Definition of trafficking in human beings

1. In order to be fully consistent with the definition of THB in the Convention, GRETA considers that the Italian authorities should ensure that "receipt" as one of the actions for committing trafficking in human beings is covered by the definition of THB in the CC.
2. In order to be fully consistent with the definition of THB in the Convention, GRETA considers that the Italian authorities should ensure that "abduction" as one of the means for committing trafficking in human beings is covered by the definition of THB in the CC.
3. GRETA considers that stating explicitly the irrelevance of the consent of a victim to the intended exploitation could improve the implementation of anti-trafficking provisions and provide victims with greater confidence in self-reporting to NGOs and public authorities.

Comprehensive approach and co-ordination

4. GRETA urges the Italian authorities to strengthen the institutional framework for action against THB in order to improve co-ordination and ensure a more effective involvement of all public bodies having a role in combating and preventing THB and protecting its victims.
5. Further, GRETA considers that if the Department for Equal Opportunities is to fulfil the role of a co-ordinating structure in the fight against THB in Italy, investment should be made in its human and financial resources so that it can effectively carry out the full range of tasks related to THB.
6. Moreover, noting that the new National Action Plan envisages the establishment of an Inter-institutional Committee which will include civil society representatives, GRETA considers that the Italian authorities should strengthen co-ordination between public bodies and NGOs engaged in anti-trafficking action and involve NGOs and other members of civil society in the development and implementation of anti-trafficking policy, including the evaluation of anti-trafficking efforts.
7. GRETA also urges the Italian authorities to take steps to ensure that national action to combat THB is comprehensive, in particular by:
 - addressing all victims of trafficking for all forms of exploitation in the anti-trafficking legal and policy framework, while taking into account the gender-dimension of trafficking and the particular vulnerability of children, including through a comprehensive national action plan against THB;
 - developing guidelines on the identification and referral to assistance of victims of trafficking, building on existing expertise at local and regional level;
 - strengthening action to combat THB for the purpose of labour exploitation by involving civil society, trade unions, labour inspectorates and the private sector, and improving the identification of and assistance to victims of THB for the purpose of labour exploitation;
 - strengthening prevention and protection measures that address the particular vulnerability of children to trafficking;
 - reducing the particular vulnerability of irregular migrants to THB.

8. In addition, GRETA invites the Italian authorities to consider the establishment of an independent National Rapporteur or designate another independent mechanism for monitoring the anti-trafficking activities of State institutions (see Article 29, paragraph 4, of the Convention and paragraph 298 of the Explanatory Report).

9. Further, GRETA invites the Italian authorities to study the implications of the immigration legislation, in particular the offence of illegal entry and stay, for the identification and protection of victims of trafficking, and the prosecution of offenders.

Training of relevant professionals

10. GRETA considers that the Italian authorities should continue to invest in the continuous training on issues related to THB for different forms of exploitation and the rights of victims of trafficking, for all professionals who may come into contact with victims of THB, in particular immigration officials, law enforcement authorities, labour inspectors, police investigators, prosecutors, judges, social workers, staff of identification and expulsion centres for irregular migrants (CIEs), members of NGOs and lawyers. Training programmes should be designed with a view to improving the knowledge and skills of relevant professionals to enable them to identify victims of trafficking, to assist and protect them, to facilitate compensation for victims and to secure convictions of traffickers.

Data collection and research

11. For the purpose of preparing, monitoring and evaluating anti-trafficking policies, GRETA considers that the Italian authorities should further develop a comprehensive and coherent statistical system on trafficking in human beings by compiling reliable statistical information from all main actors, and allowing disaggregation (concerning sex, age, type of exploitation, country of origin and/or destination, internal trafficking). This should be accompanied by all the necessary measures to respect the right of data subjects to personal data protection, including when NGOs working with victims of trafficking are asked to provide information for the national database.

12. GRETA invites the Italian authorities to continue conducting and supporting research on THB-related issues as an important source of information on the impact of current policies as well as a basis for future measures. Areas where further research is needed, in order to shed more light on the extent of the problem of THB in Italy, include trafficking for the purpose of labour exploitation, internal trafficking, domestic servitude and child trafficking.

International co-operation

13. GRETA commends the efforts made by the Italian authorities in the area of international co-operation and invites them to continue developing international co-operation, including through finalising the adoption of legislation regulating the setting up of JITs and exploring further possibilities for co-operation with governmental and non-governmental actors in countries of origin and transit, with a view to prosecuting offenders, assisting victims and preventing THB.

14. Further, GRETA invites the Italian authorities to continue contributing to awareness-raising prevention activities in the main countries of origin of victims of THB found in Italy.

Measures to raise awareness and discourage demand

15. GRETA urges the Italian authorities to develop country-wide awareness-raising activities on all forms of THB. The Italian authorities should plan future information, awareness-raising and education campaigns with the involvement of civil society, on the basis of research and impact assessment. Further, awareness-raising activities should systematically be implemented through the education system.

16. GRETA urges the Italian authorities to continue their efforts to discourage demand as a root cause of THB, bearing in mind that such measures should be balanced and not lead to the criminalisation of victims of trafficking. Efforts to discourage demand for the services of victims of trafficking for the purpose of labour exploitation should include reinforcing labour inspections, in particular in sectors at high risk such as agriculture, construction, textile industry, the hotel/catering sector and domestic service, and effective penalties for those who exploit victims of trafficking.

17. Further, GRETA invites the Italian authorities to consider adopting legislative and other measures to criminalise the use of services provided by victims of trafficking with the knowledge that the person is such a victim.

Social, economic and other initiatives for groups vulnerable to THB

18. GRETA urges the Italian authorities to strengthen the aspect of prevention through social and economic empowerment measures for groups vulnerable to THB, in particular people of Roma and Sinti origin, undocumented migrants and asylum seekers.

Border measures to prevent THB and measures to enable legal migration

19. GRETA considers that the Italian authorities should make further efforts to detect and prevent THB through border control measures, and in particular:

- introduce a checklist to identify potential THB-related risks during the visa application system and provide training to relevant staff on the detection of possible victims of THB;
- provide written information to foreign nationals planning to travel to Italy, in a language that they can understand, in order to alert them about the risks of THB, inform them of their rights and where to turn for advice and assistance.

Identification of victims of trafficking in human beings

20. GRETA urges the Italian authorities to ensure that all victims of trafficking are properly identified and can benefit from the assistance and protection measures contained in the Convention, in particular by:

- strengthening multi-agency involvement in victim identification by introducing a clear national referral mechanism, defining the roles of all frontline staff who may come into contact with victims of trafficking;
- providing frontline staff with operational indicators, guidance and toolkits to be used in the identification process and train them to use those identification tools in order to ensure that they adopt a proactive and harmonised approach to detecting and identifying victims of trafficking; these indicators should be regularly updated in order to reflect the changing nature of human trafficking and types of exploitation;
- ensuring that law enforcement officials, social workers, labour inspectors, border officers and other relevant actors adopt a more proactive approach and increase their outreach work to identify possible victims of trafficking, in particular as regards forms of exploitation other than sexual (labour exploitation, forced begging);
- paying increased attention to detecting victims of THB among unaccompanied minors and setting up a specific identification mechanism which takes into account the special circumstances and needs of child victims of trafficking, involves child specialists and ensures that the best interests of the child are the primary consideration;

- taking steps to address the problem of disappearance of unaccompanied foreign children by providing suitable safe accommodation and assigning adequately trained legal guardians;
- developing age assessment tools and effectively implement the presumption and the measures foreseen in Article 10, paragraph 3, of the Convention when the age of the victim is uncertain and the measures foreseen in Article 10, paragraph 4, of the Convention if an unaccompanied child is identified as a victim of trafficking;
- improving the identification of victims of trafficking among irregular migrants and asylum seekers, including through clear, binding procedures to be followed and through training of immigration police officers and staff working in first assistance and reception centres (CPSAs), reception centres for migrants (CDAs), identification and expulsion centres (CIEs) and reception centres for asylum seekers (CARAs).

Assistance to victims

21. GRETA urges the Italian authorities to:

- ensure that the provision of assistance to victims of THB is not linked to the victim's co-operation with the investigation and participation in criminal proceedings;
- create specific assistance projects and shelters for child victims of THB, taking due account of their special needs and the best interests of the child.

22. Moreover, GRETA considers that the Italian authorities should:

- evaluate the funding needs of assistance programmes and adapt the respective resources if necessary;
- provide long-term funding for civil society organisations that run victim assistance projects, subject to quality controls and evaluation in order to ensure the continuity of assistance;
- ensure that there are sufficient places in shelters for male victims across Italy.

Recovery and reflection period

23. GRETA urges the Italian authorities to review the legislation in order to ensure that the recovery and reflection period provided for in Article 13 of the Convention is specifically defined in law and that all the measures of protection and assistance envisaged in Article 12, paragraphs 1 and 2, of the Convention are made available during this period. It should be made clear that victims benefiting from the recovery and reflection period cannot be expelled from the Italian territory, that the enforcement of expulsion orders need to be suspended in the meantime, and that the recovery and reflection period is not conditional on the victim's co-operation with the law enforcement authorities.

Residence permits

24. GRETA invites the Italian authorities to take steps to ensure that victims of THB can fully benefit in practice from the right provided under Italian law to obtain a renewable residence permit regardless of the form of exploitation they have suffered, including by systematically informing victims, in a language they understand, about the two paths leading to a residence permit and offering both paths in an equal manner.

Compensation and legal redress

25. GRETA urges the Italian authorities to adopt measures to facilitate and guarantee access to compensation for victims of trafficking, and in particular to:

- ensure that victims of trafficking are systematically informed in a language that they can understand of the right to seek compensation and the procedures to be followed;
- ensure that victims have effective access to legal assistance;
- enable victims of trafficking to exercise their right to compensation by ensuring their effective access to legal aid by derogation from the income limit.

26. GRETA also invites the Italian authorities to reconsider whether the envisaged maximum amount of 1 500 euros of compensation from the state fund corresponds to the severe human rights violations victims of THB suffer and the cumbersome procedural path they have to follow until they are granted compensation.

Repatriation and return of victims

27. GRETA urges the Italian authorities to adopt a clear legal and policy framework for the return of trafficked persons. In this context, the Italian authorities should take steps to:

- ensure that the return of victims of trafficking is conducted with due regard for the rights, safety and dignity of the person and the status of legal proceedings; this implies informing victims of trafficking about existing programmes, protecting them from re-victimisation and re-trafficking and, in the case of children, fully respecting the principle of the best interests of the child;
- make efforts to develop co-operation with countries of origin of victims of trafficking in order to ensure proper risk assessment and safe return of victims, as well as their effective reintegration;
- ensure compliance with *non-refoulement* obligation under Article 40, paragraph 4, of the Convention.

Non-punishment of victims of trafficking in human beings

28. GRETA urges the Italian authorities to ensure compliance with Article 26 of the Convention through the adoption of a provision on non-punishment of victims of trafficking for their involvement in unlawful activities, to the extent that they were compelled to do so, or by developing relevant guidance. Public prosecutors should be encouraged to be proactive in establishing if an accused person is a potential victim of trafficking and to consider trafficking in human beings as a serious violation of human rights. While the identification procedure is ongoing, potential victims of trafficking should not be punished for immigration-related offences.

Investigation, prosecution and procedural law

29. GRETA urges the Italian authorities to strengthen their efforts to ensure that crimes related to THB for all types of exploitation are proactively investigated and prosecuted promptly and effectively, leading to proportionate and dissuasive sanctions.

Protection of victims and witnesses

30. GRETA considers that the Italian authorities should make full use of all measures available to protect victims and witnesses of THB and to prevent intimidation during the investigation and during and after the court proceedings.

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

Public bodies

- Department for Equal Opportunities of the Italian Presidency of the Council of Ministers
- Ministry of Justice
- Ministry of Labour and Social Policies
- Ministry of Foreign Affairs
- Ministry of the Interior
- State Police
- Carabinieri - Special Operations Group (ROS) and Command for the Protection of Labour
- *Guardia di Finanza* (Financial Police)
- National Anti-Mafia Directorate (DNA)
- Prosecutors from the District Anti-Mafia Directorates (DDA) of Lecce and L'Aquila
- National Institute of Statistics (ISTAT)
- *Questura* of Lecce
- *Questura* of Naples
- Regional Directorate of Labour Veneto
- Representatives of the Municipalities of Lecce, Naples, Padua, Venice and Verona

Intergovernmental organisations

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

Non-governmental organisations

- Amnesty International Italy
- ASGI (association of lawyers specialised in immigration issues)
- Associazione Micaela Onlus
- Be Free Cooperativa Sociale
- CNCA (Co-ordinating National Community of Hospitality network)
- CGIL Trade Union
- CISL Trade Union
- Cooperativa Sociale Dedalus
- ECPAT
- On the Road Onlus
- Salvation Army Italy
- UIL Trade Union
- USMI (Italian Union of Women Major Superiors)

Government's comments

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

GRETA engaged in a dialogue with the Italian 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 Italian authorities on 29 July 2014 and invited them to submit any final comments. The comments of the authorities of Italy, submitted on 12 September 2014, are reproduced hereafter.



Presidenza del Consiglio dei Ministri

*Dipartimento per le Pari Opportunità
Ufficio per gli affari generali, internazionali
e gli interventi in campo sociale
Servizio per gli affari generali e sociali*

Presidenza del Consiglio dei Ministri
DPO 0007760 P-4.25.1
del 12/09/2014



Rome, 12 September 2014

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

Subject: Comments on the final report of the Group of Experts on Action against Trafficking in Human Beings (GRETA) – first evaluation round

Dear Ms. Nestorova,

The Italian Government acknowledges receipt of the final report drawn up by the Group of Experts on Action against Trafficking in Human Beings (GRETA) concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Italy.

We would like to express our deep appreciation for your work in the drafting of the report and gratitude for your fruitful cooperation and highlight that the report and its proposals will be particularly useful for Italy's future activities on combating trafficking in human beings.

Upon GRETA's invitation, please find attached to this letter some comments that we deem to be important in order to contribute to a more precise overview of the situation in Italy.

We look forward to further cooperation with GRETA.

Yours sincerely,

Tiziana Zanrini
Contact person to GRETA

With reference to the request for contributions relating to the final report on Italy received from the GRETA group, we submit the following.

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

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

Point:

- *n. 44: "In order to be fully consistent with the definition of THB in the Convention, GRETA considers that the Italian authorities should ensure that "receipt" as one of the actions for committing trafficking in human beings is covered by the definition of THB in the CC".*

The concept of receipt is indicated in the Convention of the Council of 3 May 2005 as one of the possible actions which can be used in the context of trafficking.

The element of receipt is covered by the new formulation of the offence of trafficking introduced by Legislative Decree n. 24 of 2014 that, among the active conducts listed, expressly includes the offer of hospitality - offers lodging- that must be considered substantially equivalent to the term "receipt" that is found in the Convention.

4. Implementation by Italy or measures concerning substantive criminal law, investigation, prosecution and procedural law

Point:

- *n. 197: "GRETA urges the Italian authorities to strengthen their efforts to ensure that crimes related to THB for all types exploitation are proactively investigated and prosecuted promptly and effectively, leading to proportionate and dissuasive sanctions".*

It should be pointed out that in the framework of the on-going initiatives of Italy's six-month Presidency of the European Union, the Central Operational Service of State Police, together with the Carabinieri Corps (and namely with the Carabinieri General Command and the Special Investigative Department), is working on the "Project on the fight against Trafficking in Human Beings", aiming at gathering an updated collection of the best practices identified in all EU countries with regard to the procedures to identify victims of THB. This project is intended for law enforcement officers, and in particular, for those from investigative units who shall use the information in their investigations and to better describe this criminal phenomenon.

- *n. 202: "GRETA considers that the Italian Authorities should make full use of all measures available to protect victims and witnesses of THB and to prevent intimidation during the investigation and during and after the Court proceedings".*

As provided for by the Italian Legislation, Law 45¹ of February 13, 2001 (articles 12 and 13), "special protection measures" can be applied to the "witness of justice,"² only if other measures result to be inadequate, by considering the quality and significance of the witness statements and the intimidation and retaliation potential exercised by the crime group whose members are accused by the witness.

In other cases, the Public Security Authority provides for more adequate protection and surveillance measures agreed upon at a provincial multi-agency level (Co-ordination Technical

Meeting at the Prefettura office) that are monitored at a central level by the Central Multi-Agency Unit for Personal Security.

¹ This law includes "amendments to the regulation concerning protection and sanctions to be imposed to co-operating witnesses of justice as well as the provisions supporting witnesses".

² This category includes the victims of crimes, persons informed of the facts and witnesses, as well as, in case, their cohabitants.