



**GRETA**

GROUP OF EXPERTS  
ON ACTION AGAINST  
TRAFFICKING IN HUMAN  
BEINGS

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

**FIRST/SECOND EVALUATION ROUNDS**

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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).

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

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

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

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

## Executive summary

The Liechtenstein authorities have taken steps to develop the legal framework for combating trafficking in human beings. In addition to criminalising human trafficking, the national legislation provides for a number of rights of victims of human trafficking. Recent amendments to the Criminal Code, which are due to enter into force in October 2019, introduce begging and the exploitation of criminal activities among the forms of exploitation related to human trafficking and increase the maximum penalties for human trafficking.

A Roundtable on Trafficking in Human Beings was established in Liechtenstein in 2006, in order to strengthen co-operation between law enforcement authorities, migration authorities and institutions responsible for providing assistance to victims of trafficking. GRETA welcomes the creation of the Roundtable and its efforts to take a co-ordinated approach against human trafficking, and considers that more stakeholders should be involved in the Roundtable, including NGOs and other members of civil society.

In 2007, the Liechtenstein Government adopted Guidelines against Trafficking in Human Beings, which were updated in 2017. The Guidelines define the roles and responsibilities of different stakeholders in the identification and referral to assistance of victims of THB and effectively fulfil the role of a National Referral Mechanism (NRM). In addition, GRETA urges the authorities to adopt a national action plan or other policy document which addresses all aspects of the fight against trafficking in human being, including prevention and the provision of training to relevant professionals.

As regards prevention of trafficking in human beings, foreign nationals granted a short-term residence permit to work as nightclub dancers in Liechtenstein receive a fact sheet containing information about their rights and duties. GRETA considers that the Liechtenstein authorities should develop initiatives to raise awareness of human trafficking for different forms of exploitation amongst the general public and at-risk groups, such as persons employed to provide personal care for the elderly and foreign agricultural workers employed on trainee contracts. In this context, GRETA urges the authorities to provide training to labour inspectors on detecting trafficking for the purpose of labour exploitation and the rights of victims.

In 2012-2017, four cases involving a total of 11 presumed victims of trafficking were investigated by the police, but there was not sufficient evidence and none of the presumed victims were formally identified as victims of trafficking. GRETA notes the central role of the police in the victim identification process, which depends on the presence of sufficient evidence to build a criminal case. At the same time, the absence of a formal role for civil society as a first point of contact for possible victims may dissuade persons who are afraid of the authorities (for example, due to being in an irregular migration status) from seeking help. GRETA urges the Liechtenstein authorities to take further steps to ensure that all victims of trafficking are identified as such and can benefit from the assistance and protection measures contained in the Convention, in particular by disconnecting the formal identification of victims from the criminal investigation and the presumed victim's co-operation in it.

The Liechtenstein authorities co-operate with the Swiss NGO FIZ in the provision of assistance measures to presumed victims of trafficking. There are no specialised shelters for victims of trafficking in Liechtenstein, but the shelter for female victims of domestic violence has in the past provided accommodation to presumed victims of trafficking. GRETA urges the Liechtenstein authorities to ensure that all victims of trafficking under Liechtenstein jurisdiction, including asylum seekers and persons exploited abroad but identified in Liechtenstein, benefit from assistance measures in accordance with the Convention.

Moreover, GRETA urges the Liechtenstein authorities to take steps to improve the identification of child victims of trafficking and their referral to dedicated assistance services, with input from child protection specialists and by focusing on the best interests of the child.

GRETA also calls on the Liechtenstein authorities to ensure that all possible foreign victims of trafficking are offered a recovery and reflection period and all the measures of protection and assistance envisaged in the Convention during this period.

No compensation of any kind has been paid to victims of trafficking in Liechtenstein as there have been neither formally identified victims, nor perpetrators convicted. GRETA proposes several measures to facilitate and guarantee access to compensation for victims of trafficking, including to provide them systematically with information on the right to seek compensation and the procedures to be followed.

Further, GRETA urges the Liechtenstein authorities to ensure compliance with Article 26 of the Convention through the adoption of a provision on the non-punishment of victims of trafficking for their involvement in unlawful activities, to the extent that they were compelled to do so, and/or by developing relevant guidance.

GRETA considers that the Liechtenstein authorities should take further steps to ensure that human trafficking offences for all types of exploitation are proactively investigated and promptly prosecuted, leading to proportionate and dissuasive sanctions, by providing further training to police officers and prosecutors, making use of special investigation techniques, and systematically carrying out financial investigations in human trafficking cases. Further, GRETA recommends that the authorities should make full use of the available legal provisions and facilities in order to protect victims and witnesses of trafficking.

Finally, GRETA welcomes Liechtenstein's involvement in international co-operation against human trafficking and invites the authorities to continue and further develop this co-operation, in particular as regards training of relevant professionals, protection of victims and criminal investigation of cross-border cases.



## I. Introduction

1. Liechtenstein deposited the instrument of ratification of the Council of Europe Convention on Action against Trafficking in Human Beings ("the Convention") on 27 January 2016. The Convention entered into force for Liechtenstein on 1 May 2016.<sup>1</sup>

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.

3. In accordance with Article 38 of the Convention, GRETA proceeded with the examination of the measures taken by Liechtenstein to implement the provisions set out in the Convention. GRETA decided to join the first and second evaluation rounds of the Convention in respect of Liechtenstein and sent a combined questionnaire to the authorities on 9 April 2018. The deadline for replying to the questionnaire was 9 September 2018. Liechtenstein submitted its reply on 28 August 2018.

4. In preparation of the present report, GRETA used the reply to the questionnaire by Liechtenstein, other information collected by GRETA and information received from civil society. In addition, an evaluation visit to Liechtenstein took place from 20 to 22 November 2018, carried out by the following delegation:

- Ms Helga Gayer, member of GRETA;
- Mr Helmut Sax, member of GRETA;
- Mr Mats Lindberg, Administrator at the Secretariat of the Convention on Action against Trafficking in Human Beings.

5. During the visit, the GRETA delegation met Mr Andreas Schädler, Head of the Crime Investigation Division of the National Police, who acts as Chairman of the Roundtable on Trafficking in Human Beings, as well as officials from the Migration and Passport Office, the Office of Economic Affairs, the Labour Inspection Bureau, the Office for Foreign Affairs, the Office of Social Services and its Children and Youth Service Division, and the Victim Assistance Office. Further, meetings were held with prosecutors and members of the judiciary. Discussions were also held with Members of Parliament and representatives of Liechtenstein's National Institution for Human Rights. Further, the GRETA delegation met a representative of the Financial Sector Commission on Modern Slavery and Human Trafficking, a project developed jointly by the Government of Liechtenstein and the United Nations University's Centre for Policy Research, in partnership with the Government of Australia, a consortium of Liechtenstein banks and the Liechtenstein banking association.

6. The GRETA delegation held separate meetings with representatives of non-governmental organisations (NGOs), the trade union LANV and researchers.

7. Further, the GRETA delegation visited an NGO-run shelter for female victims of domestic violence which may provide short-term accommodation to victims of human trafficking, as well as a reception centre for asylum seekers.

8. The list of the national authorities, NGOs and other organisations with which the delegation held consultations is set out in Appendix II to this report. GRETA is grateful for the information provided by them.

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

9. GRETA is grateful for the valuable assistance provided before, during and after the visit by the contact person appointed by the Liechtenstein authorities, Mr Martin Hasler, Office for Foreign Affairs, Department for Security and Human Rights.

10. The draft version of the present report was adopted by GRETA at its 34th meeting (18-22 March 2019) and was submitted to the Liechtenstein authorities for comments on 8 April 2019. The authorities' comments were received on 11 June 2019 and were taken into account by GRETA when adopting the final report at its 35th meeting (8-12 July 2019). The report covers the situation up to 12 July 2019; developments since that date are not taken into account in the following analysis and conclusions.

## **II. National framework in the field of action against trafficking in human beings in Liechtenstein**

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

11. Liechtenstein is a country of destination for trafficked persons. In the period 2012-2017, 11 presumed victims of trafficking in human beings (THB) were detected in Liechtenstein: eight for the purpose of sexual exploitation (five women and three men) and three for the purpose of exploitation through begging (two women and a 10-year old boy). The countries of origin of the presumed victims were the Dominican Republic, Thailand, Romania and Ukraine. None of the presumed victims were formally identified by the police following investigations (see paragraph 98). Further, at the time of GRETA's visit, one more presumed victim of THB for the purpose of sexual exploitation (a Nigerian woman) had been detected at the reception centre for asylum seekers operated by the NGO Flüchtlingshilfe (see paragraph 100).

12. Liechtenstein has a population of 37,622 inhabitants on a territory of 160 km<sup>2</sup>, landlocked between Austria and Switzerland.<sup>2</sup> Due to its Customs Treaty with Switzerland, Liechtenstein has an open border to the west and south. The eastern and northern borders with Austria are guarded by the Swiss Border Guard on the basis of the Customs Treaty. There are no airports or sea borders in Liechtenstein.

13. GRETA was informed by various interlocutors that there are at-risk groups particularly vulnerable to THB and exploitation, such as nightclub dancers, agricultural workers arriving in Liechtenstein on a trainee scheme and persons providing personal care for the elderly (see paragraphs 73-75).

14. Asylum seekers, including unaccompanied children, are also vulnerable to human trafficking. The number of asylum seekers in Liechtenstein was 155 in 2015, 86 in 2016, 153 in 2017, and 88 at the time of GRETA's visit in November 2018.

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

#### **a. Legal framework**

15. At the international level, in addition to the Council of Europe Convention on Action against Trafficking in Human Beings, Liechtenstein is Party to the United Nations Convention against Transnational Organized Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children ("Palermo Protocol"), which it ratified in 2008. Liechtenstein is also Party to the UN Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol, and the Convention of 29 May 1993 on Protection of Children and Co-operation in the Respect of Intercountry Adoption. Further, Liechtenstein is party to a number of Council of Europe conventions in the criminal field, which are relevant to action against trafficking in human beings.<sup>3</sup>

16. Trafficking in human beings is a criminal offence under Article 104a of the Criminal Code (CC) of Liechtenstein, which was amended in February 2019.

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<sup>2</sup> 2017 data from the Liechtenstein Office of Statistics <https://www.llv.li/files/as/fliz-englisch-2017-2nd-edition.pdf>

<sup>3</sup> In particular, the European Convention on Extradition, the European Convention on Mutual Assistance in Criminal Matters, and the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime.

17. Other laws relevant to action against human trafficking include the Aliens Act, in conjunction with the Ordinance on the Admission and Stay of Foreigners, which contain provisions on temporary residence permits for victims of THB (see paragraphs 125-127), as well as the Labour Act, the Job Placement and Temporary Employment Services Act, and the Posting of Workers Act.

b. National Action Plan

18. In 2007, the Liechtenstein Government adopted Guidelines against Trafficking in Human Beings. The Guidelines were most recently updated by a government decision in 2017. The Guidelines define the roles and responsibilities of different stakeholders in the identification and referral to assistance of victims of THB and effectively fulfil the role of a National Referral Mechanism (NRM). They are based on the Co-operation Mechanism against Trafficking in Human Beings, developed by the Swiss Co-ordination Unit against the Trafficking in Persons and Smuggling of Migrants (KSMM).

19. However, there is no national action plan or other policy document against THB covering in a comprehensive way all aspects of the fight against THB, including prevention, awareness raising and training. The Liechtenstein authorities have stated that there are at present no plans to adopt such a policy document.

20. **With a view to meeting the obligations under the Convention and adopting a comprehensive approach to the fight against THB, GRETA urges the Liechtenstein authorities to adopt an action plan or other policy document which addresses all aspects of the fight against trafficking in human being, including prevention and the provision of training to relevant professionals.**

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

a. Roundtable on Trafficking in Human Beings

21. A Roundtable on Trafficking in Human Beings was established in Liechtenstein in 2006 in order to strengthen co-operation between law enforcement authorities, migration authorities and institutions responsible for providing assistance to victims of THB, as well as to monitor the situation with regard to THB. The Roundtable consists of representatives the National Police, the Office for Foreign Affairs, the Office of Economic Affairs, the Migration and Passport Office, the Victims Assistance Office and the Office of the Public Prosecutor. It meets up to two times per year under the chairmanship of the Head of the Criminal Police. Other institutions, such as the social services, can be consulted as necessary. No members of civil society take part in the Roundtable. There is no dedicated budget for the activities of the Roundtable.

b. National Police

22. The Crime Investigation Division of the National Police of Liechtenstein has the authority to conduct pre-trial investigations into suspected THB cases.

c. Office of the Public Prosecutor

23. Prosecution is in principle initiated *ex officio* by the Office of the Public Prosecutor, but it can also be initiated based on a complaint by a victim. There is no specialisation of prosecutors in Liechtenstein; thus, any prosecutor can be assigned a THB case.

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d. Migration and Passport Office

24. The Migration and Passport Office (APA) has the authority to issue a recovery and reflection period to presumed victims of THB, as well as a written confirmation of the legality of their presence in Liechtenstein during this period.

e. Office of Economic Affairs

25. The Office of Economic Affairs is responsible for supervising, including by means of labour inspections, compliance with the Labour Act, the Job Placement and Temporary Employment Services Act and the Posted Workers Act.

f. Victim Assistance Office

26. The Victim Assistance Office is tasked with providing support to all categories of victims, including victims of THB. It is staffed by one person, who works part-time.

g. The Office of Social Services

27. The Office of Social Services (ASD) is responsible for ensuring subsistence and access to emergency medical care for victims of THB, including accommodation for child victims.

h. Civil society and international organisations

28. There are no NGOs specialised in the area of action against human trafficking in Liechtenstein. The NGO Frauenhaus, which assists female victims of domestic violence and their children and runs a shelter, is listed among the stakeholders in the Guidelines against Trafficking in Human Beings and has accommodated victims of trafficking in its shelter. Further, the NGO Flüchtlingshilfe runs the country's reception centre for asylum seekers. In the past, the authorities had a service agreement with the Swiss NGO FIZ (Women's Information Centre, *Fachstelle Frauenhandel und Frauenmigration*) in Zurich for the provision of safe accommodation to any identified victims of THB in Liechtenstein. There is currently no such agreement, but the Victim Assistance Office of Liechtenstein arranges, on a case-by-case basis, the provision of assistance by FIZ to victims of THB detected in Liechtenstein.

29. The LANV Trade Union has been invited to the meetings of the Roundtable on Trafficking in Human Beings to discuss the situation of nightclub dancers who are considered a risk group in regard to THB.

30. There are no international organisations engaged in combating THB present in Liechtenstein, but the UNHCR and IOM offices in Switzerland are also tasked to follow developments under their mandate in Liechtenstein.

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

#### **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

31. 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”<sup>4</sup>.

32. 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 Rights<sup>5</sup> (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.<sup>6</sup>

33. 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, 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.

34. 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.<sup>7</sup>

<sup>4</sup> 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>

<sup>5</sup> *Rantsev v. Cyprus and Russia*, application No. 25965/04, judgment of 7 January 2010, paragraph 282.

<sup>6</sup> See also *Siliadin v. France*, application No. 73316/01, judgment of 26 July 2005; *C.N. and V. v. France*, application No. 67724/09, judgment of 11 October 2012; *C.N. v. United Kingdom*, application No. 4239/08, judgment of 13 November 2012; *Chowdury and Others v. Greece*, application No. 21884/15, judgement of 30 March 2017.

<sup>7</sup> 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.

35. As noted in paragraph 16, THB is a criminal offence under Article 104a of the CC of Liechtenstein. According to the authorities, the Liechtenstein legal system does not provide for the classification of criminal offences as violations of human rights. Violations of human rights committed by natural and legal persons are prosecuted under criminal law. Violations of human rights can be brought to court in Liechtenstein if they violate the provisions of the Constitution, relevant national laws or certain basic rights defined in treaties. However, the Liechtenstein authorities do not consider the Council of Europe Anti-trafficking Convention as directly applicable and therefore violations of the Convention's provisions can only be prosecuted based on Convention provisions transposed into national law.

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

b. Definitions of "trafficking in human beings" and "victim of THB" in Liechtenstein law

i. Definition of "trafficking in human beings"

37. 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.

38. Under Liechtenstein law, THB is currently criminalised in Article 104a CC as follows:

"1) Any person who recruits, accommodates or otherwise takes in, transports, or offers, or passes on to another person:

1. a minor<sup>8</sup> or

2. an adult person by dishonest means (paragraph 2) used against that person,

with the intent that such a minor or adult person be exploited sexually, by organ removal, or in terms of their labour, shall be punished with imprisonment of up to three years.

2) Dishonest means shall include deception regarding facts, taking advantage of a position of authority, predicament, mental illness or a condition that makes the person defenceless, intimidation, and the granting or acceptance of a benefit for handing over control of the person.

3) Any person who commits the act with the use of force or a dangerous threat shall be punished with imprisonment of six months to five years.

4) Any person who commits the act against an under-age person<sup>9</sup> as part of a criminal group, with use of severe force or in such a manner that the life of such under-age person is intentionally or grossly negligently endangered by the act or in such a manner that the act results in a particularly severe disadvantage for such under-age person, shall be punished with imprisonment of one to ten years."<sup>10</sup>

<sup>8</sup> According to Article 74 of the CC, a minor (*minderjährige Person*) is a person under 18 years of age.

<sup>9</sup> According to Article 74 of the CC, an under-aged person (*unmündig*) is a person under 14 years of age.

<sup>10</sup> Unofficial translation.

39. The range of actions referred to in paragraph 1 of Article 104a of the CC covers those envisaged under Article 4(a) of the Convention.

40. Article 104a, paragraph 2, of the CC refers to “dishonest means” and defines them as “deception regarding facts, taking advantage of a position of authority, predicament, mental illness or a condition that makes the person defenceless, intimidation, the granting or accepting of benefits for handing over control of the person”. “Abduction” is not mentioned among the means, but the authorities have indicated that it is criminalised separately under Articles 99-102 of the CC and if a human trafficking offence is committed through abduction, separate charges will be brought under one of these articles. The concept of “deception regarding facts” could be interpreted as covering all forms of deception and fraud. “Condition that makes the person defenceless” could be interpreted as corresponding to “position of vulnerability”. For a crime to qualify as THB, “dishonest means” need to have been used, except if the victim is a child.

41. Under Article 104a of the CC as it currently stands, sexual exploitation, organ removal and labour exploitation are the only purposes of THB explicitly criminalised. The list of exploitation purposes is closed, rather than open-ended as in the Convention. According to the authorities, exploitation through begging<sup>11</sup> and forced criminality are covered by labour exploitation (see information on investigations of such cases in paragraph 112).

42. GRETA was informed that Article 104a of the CC was amended by Parliament on 28 February 2019, and the amendments were due to enter into force in October 2019. The amendments introduce begging and the exploitation of criminal activities among the exploitation purposes mentioned in Article 104(a) of the CC as well as increasing the maximum penalties for THB (see paragraph 143).

43. Slavery and slave trade are criminalised separately under Article 104 of the CC (see paragraph 144). GRETA recalls that Article 4(a) of the Convention provides the minimum content of the types of exploitation included in the definition of THB, which includes slavery, practices similar to slavery and servitude. In order to be in full compliance with the Convention, **GRETA urges the Liechtenstein authorities to include slavery, practices similar to slavery and servitude as types of exploitation in the legal definition of trafficking in human beings in Article 104a of the CC.**

44. 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. The irrelevance of the consent of the victim to the intended exploitation is not stated in Liechtenstein’s legislation. The Liechtenstein authorities have stated that it is not possible for victims to give their consent to being trafficked. GRETA is nevertheless of the opinion that setting out this pivotal principle in law could facilitate its use by investigators, prosecutors and judges when dealing with cases of human trafficking and with a view to obtaining a more consistent approach. Indeed, consent is an important factor at different stages of human trafficking cases, for instance: if victims refuse to self-identify, as they consider that they consented to exploitation; when taking a decision on whether to investigate and prosecute a case as THB, where the victim apparently consented to the exploitation; or when deciding on the penalty for offenders where there are assertions of consent.<sup>12</sup> **GRETA considers that stating explicitly in law 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.**

45. For further analysis of the definition of THB and related offences from a substantive criminal law perspective, see paragraphs 141-148.

<sup>11</sup> Begging as such is allowed in Liechtenstein if conducted by adults, subject to the issuing of a licence which allows the licence-holder to go door-to-door, for example in order to sell items of little value.

<sup>12</sup> See UNODC Issue Paper, The Role of Consent in the Trafficking in Persons Protocol, United Nations, Vienna, 2014. Available at: [www.unodc.org/documents/human-trafficking/2014/UNODC\\_2014\\_Issue\\_Paper\\_Consent.pdf](http://www.unodc.org/documents/human-trafficking/2014/UNODC_2014_Issue_Paper_Consent.pdf)



*ii. Definition of "victim of THB"*

46. 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.

47. According to the Victim Assistance Act, a victim of THB is any person whose physical, psychological or sexual integrity has been directly impaired by a criminal offence. As concerns victims of THB, the law is to be read in conjunction with the Guidelines against THB (see paragraph 18).

48. The question of the definition of victim of THB will be further discussed in the sections of this report dealing with the identification of victims and the assistance measures provided to them, along with the related proposals made by GRETA.

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

*i. Comprehensive approach and co-ordination*

49. 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 include 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).

50. The Liechtenstein authorities have taken steps to develop the legal and policy framework on action against human trafficking, which is intended to cover all victims of THB subjected to different types of exploitation, both transnationally and nationally. As noted in paragraph 18, the authorities have adopted and subsequently updated Guidelines against THB which fulfil the role of a National Referral Mechanism.

51. As noted in paragraph 21, the Roundtable on Trafficking in Human Beings is the co-ordinating body for combating THB and assisting victims of THB. The Roundtable has been involved in developing Guidelines against trafficking in human beings (see paragraph 18), a flow chart for intervention by the National Police when detecting children who beg (see paragraph 112) and information materials for nightclub dancers considered at potential risk of falling victim to THB (see paragraph 67). Topics discussed by the Roundtable in 2019 include the situation in nightclubs and future awareness-raising activities on THB for medical staff. GRETA welcomes the creation of a Roundtable on trafficking in human beings and its efforts to take a co-ordinated approach against THB and in support of victims. However, representatives of civil society, such as the NGOs Frauenhaus and Flüchtlingshilfe, are not involved in the Roundtable. The trade union LANV has been invited to the Roundtable on an *ad hoc* basis.

52. **GRETA considers that the Liechtenstein authorities should take further steps to ensure that national action to combat THB is comprehensive, including by:**

- **involving more stakeholders, such as members of the judiciary, NGOs and other members of civil society in action against THB, including in the work of the Roundtable, and encouraging the conclusion of Memoranda of Understanding with relevant NGOs;**
- **paying increased attention to prevention and protection measures for groups at risk of THB, such as nightclub dancers, agricultural workers under trainee contracts, personal care workers for the elderly and asylum seekers.**

*ii. Training of relevant professionals*

53. There has been limited training specifically on THB for relevant officials in Liechtenstein. The responsible investigators of the Crime Investigation Division of the National Police have attended courses and events on THB and other related topics, mainly in Switzerland and Austria.

54. No training on THB has been organised for prosecutors in Liechtenstein, but it is possible to participate in such training abroad. By way of example, the prosecutor met by GRETA had attended training on THB at the Drehscheibe Centre in Vienna and had also participated in training organised by the United Nations on financial aspects of THB crime.

55. There is no training on THB for members of the judiciary, though there is training in related areas, such as sexual exploitation. Similar to prosecutors, a judge can be assigned to any case.

56. Labour inspectors of the Office of Economic Affairs have received no training on THB, nor have the staff of the Migration and Passport Office received training on THB.

57. Members of the social services of Liechtenstein have been trained on THB at the Drehscheibe Centre in Vienna. By contrast, employees of the Victim Assistance Office have received no such training.

58. There has been no training of staff of the only reception centre for asylum seekers in Liechtenstein, which is operated by the NGO Flüchtlingshilfe. In 2018, Flüchtlingshilfe was for the first time allocated a small training budget by the Government.

59. **GRETA urges the Liechtenstein authorities to ensure that training on THB (in particular on the definition and indicators of THB, detection of vulnerable individuals and groups, identification, assistance and compensation of victims) is systematically provided to relevant professionals, such as law enforcement officials, prosecutors, judges, labour inspectors, lawyers, asylum officers, social workers, child care professionals, medical and educational staff. NGOs and trade unions should also be involved in such training.**

*iii. Data collection and research*

60. 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.

61. Data collection on THB is the task of the Roundtable on Trafficking in Human Beings. In practice, data on THB is collected by the National Police as part of data on criminal investigations. In GRETA's view, the data collection should be broadened to include victims of THB identified by law enforcement agencies, NGOs and other relevant bodies, regardless of whether criminal proceedings have been instituted and whether the persons have given testimony against the alleged perpetrators.

62. **In order to create an evidence base for future policy measures, GRETA urges the Liechtenstein authorities to, set up and maintain a comprehensive and coherent statistical system on THB by compiling reliable statistical data from all main actors, including specialised NGOs, on measures to protect and promote the rights of victims as well as on investigations, prosecutions, convictions and compensations in human trafficking cases. 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.**

63. There has been no research conducted into trafficking in human beings in Liechtenstein though the Liechtenstein Institute has conducted research into some areas relevant to THB, such as migration.<sup>13</sup>

64. **GRETA considers that the Liechtenstein authorities should conduct and support research related to the phenomenon of THB as an evidence base for future policy measures.**

## **2. Measures aimed to prevent trafficking in human beings**

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

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

66. The Liechtenstein authorities have not considered it necessary to raise awareness about THB amongst the general population.

67. The Guidelines against THB provide that foreign nationals granted a short-term residence permit to work as nightclub dancers in Liechtenstein shall receive a fact sheet containing information about their rights and duties. Until early 2016, foreign dancers were mainly third-country citizens who received residence and employment permits on condition that they attended an information event at which they were informed of their rights and duties. Due to a change in the legislation on residence permits in Switzerland, which had consequences for residence permits in Liechtenstein, since early 2016 foreign dancers have solely originated from EEA countries.

68. Noting that awareness raising is essential for preventing THB, **GRETA considers that the Liechtenstein authorities should develop initiatives to raise awareness of THB for different forms of exploitation amongst the general public, groups considered at risk and service providers, including the financial sector. Awareness-raising should be accompanied by research and the impact of the measures should be assessed.**

### b. Measures to prevent labour exploitation (Article 5)

69. The Labour Act includes provisions on safety and health at work, as well as on working and rest hours. The Office of Economic Affairs is the competent authority for monitoring compliance with the Labour Act and the associated ordinances and decrees. Compliance with the Labour Act is monitored through labour inspections. The Labour Inspectorate supervises respect of the Labour Act and health and safety regulations, but not the migration status of foreign workers, which is the prerogative of the Migration and Passport Office. The Labour Inspectorate does not use interpreters during inspections.

<sup>13</sup>

<https://liechtenstein-institut.li/en-us/forschung.aspx>

70. Labour inspectors supervise, *inter alia*, places of entertainment, such as the only nightclub in Liechtenstein at which dancers perform, as well as other venues.

71. The Office of Economic Affairs issues business licences and inspects businesses. According to Article 53 of the Code of Criminal Procedure (CPC), it is obliged to file a criminal complaint with the Office of the Public Prosecutor or the National Police if it detects a criminal act that is subject to *ex officio* prosecution.

72. The Job Placement and Temporary Employment Services Act governs private job placement and temporary employment services. Anyone who engages in job placement on a regular basis and for remuneration by bringing jobseekers and employers together to conclude employment contracts requires a licence. A license is also required for temporary employment undertakings that hire out employees to third parties as a business activity. Such employees typically work on construction sites. The sub-placement of placed employees is prohibited. The legal preconditions are verified when the licence is granted. This is followed by periodic inspections, in particular with regard to the number of placement hours worked or the number of placements, as well as compliance with the security deposit provisions. Investigations are conducted whenever suspected breaches are reported. The Office of Economic Affairs is the competent authority for the exercise and supervision of the tasks and duties to be performed under the Job Placement and Temporary Employment Services Act.

73. The Posting of Workers Act applies to companies domiciled abroad that post employees to Liechtenstein as part of cross-border services, provided that an employment relationship exists between the posting company and the employee for the duration of the posting. The posting employer must grant the employees posted to Liechtenstein at least similarly beneficial terms as those to which Liechtenstein citizens are entitled under Liechtenstein legislation. The Office of Economic Affairs is responsible for monitoring compliance with the Posting of Workers Act and the associated ordinances and decrees.

74. Persons providing personal care to the elderly in Liechtenstein originate mainly from central European States and work in three-week periods in Liechtenstein, between which they are obliged to leave the country. While working, they are expected to be available 24/7 for three weeks; this is not compatible with Liechtenstein labour law, which does not permit more than 12 hours of uninterrupted work. The Liechtenstein authorities have indicated that the manner in which the provision of personal care services is treated depends on the status of the employer. If the employer is a company or an association, the work performed would fall under the Labour Act (*öffentliches Arbeitsrecht*), the compliance of which can be controlled by labour inspectors. By contrast, if a private household acts as the employer of a domestic worker or care provider, based on a private work contract falling under civil law (*privates Arbeitsrecht*), then labour inspectors do not have the right to enter private households to inspect the work of such inhouse staff. According to the authorities, most personal care services for the elderly in Liechtenstein are offered by one of two family assistance organisations the services of which fall under the Labour Act and can be subject to labour inspections.

75. Another sector considered at risk of labour exploitation is agriculture, where foreigners, mostly originating from Brazil and Ukraine,<sup>14</sup> are employed on the basis of trainee contracts through an association based in Switzerland. Agricultural trainees require a short-term residence permit, which is generally valid for one year. Applications for temporary residence permits for work purposes, including, for example, for dancers, are not made and submitted by the person for whom the residence permit is meant, but by the employer, which could constitute a missed opportunity in the context of preventing THB.

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<sup>14</sup> At the end of 2017 30 Ukrainians and 18 Brazilians were employed on trainee contracts according to the Association of agricultural organisations in Liechtenstein (*Vereinigung bäuerlicher Organisationen im Fürstentum Liechtenstein – VBO*), available at [http://www.vbo.li/Portals/0/Dokumente/20180323\\_VBO\\_Jahresbericht%202017.pdf](http://www.vbo.li/Portals/0/Dokumente/20180323_VBO_Jahresbericht%202017.pdf)

76. **GRETA urges the Liechtenstein authorities to take additional measures to prevent trafficking for the purpose of labour exploitation, in particular by:**

- **training labour inspectors on detecting THB for the purpose of labour exploitation and the rights of victims;**
- **using interpreters during labour inspections of places of work at which foreigners with insufficient command of German or other languages spoken by the labour inspectors work;**
- **paying particular attention to at-risk groups, such as persons employed to provide personal care for the elderly, and foreign agricultural workers employed on trainee contracts, based on which employers rather than the workers apply for residence permits for the latter, with the potential risk of abuse this procedure entails;**
- **review the regulatory systems concerning domestic and personal care workers and ensure that inspections can take place in private households with a view to preventing abuse and detecting cases of human trafficking;**
- **working closely with the private sector, in line with the Guiding Principles on Business and Human Rights.<sup>15</sup>**

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

77. There is an Ombudsman for Children who is integrated into the structure of the Liechtenstein National Institution for Human Rights,<sup>16</sup> founded in 2016.

78. The Children and Youth Service Division of the Office of Social Services sensitises children to various risks they may face, but THB is not explicitly addressed as a risk. With regard to particular risks related to the Internet, including use of social media, the Children and Youth Service raises awareness by means of brochures, parents' evenings in schools and other public outreach measures.

79. The Social Services are responsible for the accommodation of child asylum seekers, of whom there were three at the time of GRETA's visit (from Afghanistan, Albania and China), all over 16 years of age. Two of them were staying at the reception centre for asylum seekers. It is the policy of the Social Services to accommodate child asylum seekers above the age of 16 with adults, following an individual assessment, and only those younger than 16 or deemed to otherwise require it are placed in child-specific accommodation.

80. **GRETA considers that the Liechtenstein authorities should take additional measures to prevent trafficking in children, in particular by:**

- **raising public awareness about the risks and manifestations of child trafficking;**
- **sensitising and training child professionals about THB, how to prevent it and how to report possible cases to the competent authorities;**
- **promoting online safety of children and alerting relevant actors of the risks of trafficking in children committed via the Internet.**

<sup>15</sup> [http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR\\_EN.pdf](http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf)

<sup>16</sup> <https://www.menschenrechte.li/>

d. Measures to discourage demand (Article 6)

81. 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 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.<sup>17</sup>

82. Under Article 210 of the CC, prostitution is considered a criminal offence in case of active solicitation in public places. Thus, street prostitution is forbidden, but not advertising sexual services provided in private flats.

83. The use of services from a victim of trafficking in human beings, with the knowledge that the person is a victim, is not punishable under Liechtenstein law (see paragraph 149).

84. There are no measures to discourage demand for the services of victims of THB for the purpose of labour exploitation.

85. **GRETA considers that the Liechtenstein authorities should make efforts to discourage demand for the services of trafficked persons, in partnership with the private sector and civil society.**

e. Measures to prevent trafficking in human beings for the purpose of organ removal (Article 5)

86. GRETA notes that, while human trafficking for the purpose of organ removal, as defined by the Convention, and organ trafficking as defined by Articles 4 to 8 of the Council of Europe Convention against Trafficking in Human Organs<sup>18</sup>, are two distinct crimes, they bear certain similarities and share similar root causes, such as shortage of organs to meet demand for transplantation and poor economic and other conditions that put persons in a vulnerable position. Therefore, measures to prevent organ trafficking can help prevent trafficking for the purpose of organ removal and the reverse is also true<sup>19</sup>. Among the necessary preventive measures, GRETA underlines the importance of a robust and transparent domestic system for the removal and transplantation of human organs and the need for training of health-care professionals. GRETA also stresses the importance of conducting a thorough investigation of each case where there is information or suspicion of trafficking for the purpose of organ removal, paying attention to the abuse of the vulnerability of the "donor" and ensuring that "donors" are treated as victims of trafficking in human beings.

87. Article 46b(1) of the Public Health Act stipulates that the donation of organs, tissues, and cells must be voluntary and without remuneration. According to Article 46c of the same Act, organ trading in Liechtenstein is punishable by law. Pursuant to Article 47b of the Act, the Office of Public Health maintains a living donor register.

88. There are no institutions in Liechtenstein in which organs are transplanted or removed for transplants and there have been no instances of THB for the purpose of organ removal reported to have occurred in Liechtenstein.

<sup>17</sup> 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>

<sup>18</sup> Opened for signature in Santiago de Compostela on 25 March 2015; entry into force on 1 March 2018.

<sup>19</sup> See "[Trafficking in organs, tissues and cells and trafficking in human beings for the purpose of the removal of organs](#)", [Joint Council of Europe/United Nations Study](#) (2009), in particular pages 55-56; "[Trafficking in human beings for the purpose of organ removal in the OSCE region: Analysis and Findings](#)", [OSCE Occasional Paper No. 6](#) (2013).

89. Liechtenstein has not signed the Council of Europe Convention against Trafficking in Human Organs. **GRETA encourages the Liechtenstein authorities to sign and ratify the Council of Europe Convention against Trafficking in Human Organs as this would contribute to the prevention of trafficking for the purpose of organ removal.**

f. Border measures to prevent THB (Article 7)

90. As noted in paragraph 13, Liechtenstein's eastern and northern borders with Austria are guarded by the Swiss Border Guard on the basis of a customs treaty and the same measures are applied as at the Swiss borders. There are no particular border measures taken by the Liechtenstein authorities against THB.

91. The Liechtenstein embassies abroad do not issue visas for third-country nationals, but visas are mainly issued by Swiss embassies, or, in certain countries, by the embassies of Austria, Hungary or Lithuania. Should there be concrete indications that a person could become a victim of human smuggling or trafficking after entering Liechtenstein, it would be examined in the individual case whether a permit to stay in Liechtenstein or entry with a visa could be refused. There are no measures to disseminate information through consulates and embassies about legal entry and stay in Liechtenstein or any possible risks of THB.

g. Measures to ensure the quality, security and integrity of travel and identity documents (Article 8)

92. Liechtenstein follows the recommendations of ICAO DOC 9303 and the European Commission regarding standards of quality, security and interoperability of travel documents. Liechtenstein also takes part in relevant committees and fulfils the requirements of the Schengen partner States concerning technical interoperability and safety. Special security measurements are in place concerning personalisation of travel documents and the technical personalisation systems. Blank documents are stored at several different secure facilities. Persons entrusted to personalise documents or working with personalisation systems must pass specified police security checks. There are no known cases in which blank passports of Liechtenstein have been lost or stolen. Further, no forgeries of Liechtenstein passports are known.

### **3. Measures to protect and promote the rights of victims of trafficking in human beings**

a. Identification of victims of trafficking in human beings (Article 10)

93. 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; 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, s/he must not be removed from the country until the identification process is completed, and must receive the assistance required by the Convention.

94. As noted in paragraph 18, in 2007, the Liechtenstein Government adopted Guidelines against Trafficking in Human Beings, which were updated with a Government Decision in 2017. The Guidelines contain provisions on identification, provision of information to victims, recovery and reflection period, temporary residence permits, victims' rights in criminal procedures, including protection and application of the non-punishment principle, as well as assistance services and return and re-integration arrangements. They determine the responsibilities of different authorities and assistance providers and procedures to be followed in case of detecting presumed victims of THB, thereby fulfilling the function of a National Referral Mechanism (NRM). The responsible authorities and assistance providers are the Victim Assistance Office, the Migration and Passport Office, the National Police, the Prosecution Service, the NGO Frauenhaus and the NGO FIZ of Switzerland. The Office of Social Services and the NGO Infra, which provides support and information to women, are also mentioned in the Guidelines as institutions involved. The Guidelines foresee a prominent role for FIZ, alongside the Liechtenstein authorities, in the delivery of the various support services to presumed victim of THB. A check-list of indicators is attached to the Guidelines for use in the identification of victims.

95. According to the Liechtenstein authorities, the National Police, the Migration and Passport Office and the Office of the Public Prosecutor are sensitised to the issue of trafficking in human beings. The National Police informs the Migration and Passport Office, the Victim Assistance Office and FIZ as early as possible of any presumed victim of THB.

96. Under Article 53 of the Criminal Procedure Code (CPC), all public authorities are obliged to inform the National Police or the Office of the Public Prosecutor if they suspect that a crime, which must be prosecuted *ex officio*, has been committed. Under Article 20 of the Law on Doctors (*Ärztegesetz*), doctors must report an offence to the Office of Public Health, which in turn is obliged to report this to the Police or prosecutor based on the above provision of the CPC. Social workers are not considered to fall under any such reporting obligation.

97. GRETA was informed that if a presumed victim of THB contacts the Victims Assistance Office or is referred to it, s/he will be treated in principle as a victim and would receive appropriate support, including from the Office of Social Services, unless his/her claim of being a victim is manifestly unfounded. The National Police and the Office of the Public Prosecutor make the conclusive decision on THB victim status on the basis of the checklist of indicators and the results of the investigation. The fact sheet for nightclub dancers (see paragraph 67) contains a phone number and an e-mail address of a contact point within the National Police, but there is no separate hotline number for presumed victims of THB.

98. In 2012-2017, four cases involving a total of 11 presumed victims of THB were investigated by the Police. However, the Police did not find sufficient evidence of THB and none of the presumed victims were formally identified as victims of THB. Only two of them were provided with assistance by FIZ, while the others left the country. GRETA notes the central role of the Police in the victim identification process, which depends on the presence of sufficient evidence to build a criminal case. At the same time, the absence of a formal role for civil society as a first point of contact for possible victims may dissuade persons who are afraid of the authorities (for example, due to being in an irregular migration status) from seeking help.

99. Asylum seekers are interviewed by the Migration and Passport Office and, in the event of suspicion of trafficking in human beings, the Migration and Passport Office must immediately inform the National Police. At the time of GRETA's visit, the Migration and Passport Office had not reported any cases of asylum seekers presumed to be victims of THB. The reception centre for asylum seekers has 160 places, but only the equivalent of 1.8 full-time employees (divided into one full-time employee, six part-time employees and a trainee). Given the low staff/asylum seeker ratio, there is no possibility for staff to enter into any in-depth discussions with the asylum seekers, which could lead to the detection of victims of THB among them. Moreover, staff have not received training on THB (see the recommendation in paragraph 58).



100. One presumed victim of THB was detected at the reception centre for asylum seekers shortly before GRETA visited it, a Nigerian woman who had applied for asylum in Liechtenstein. She was considered a "Dublin" case pursuant to the Dublin III Regulation,<sup>20</sup> but due to an error related to the date on which her fingerprints were taken, the Administrative Court in the first instance decided that her case should be examined by Liechtenstein and the next asylum hearing was scheduled for 25 June 2019. The woman was assisted by a lawyer from a pool of asylum lawyers. In parallel, staff at the asylum reception centre run by the NGO Flüchtlingshilfe found indicators of THB and consulted the NGO FIZ, which concluded that the woman was a victim of THB in urgent need of specialised therapy, medical support, shelter and psycho-social counselling. On the initiative of the NGO Flüchtlingshilfe, the woman was transferred to the Frauenhaus shelter, where she received psychological counselling as a presumed victim of domestic violence. At the time of writing, preparations were being made to transfer the woman and her child to supported independent living in a flat. According to the Liechtenstein authorities, the exploitation of the woman had taken place more than seven years previously, well before she arrived in Liechtenstein, and therefore she was not considered by the authorities to be a victim of trafficking at the present time.

101. While welcoming the adoption of the Guidelines against Trafficking in Human Beings, **GRETA urges the Liechtenstein authorities to take further steps to ensure that all victims of trafficking are identified as such and can benefit from the assistance and protection measures contained in the Convention, in particular by:**

- **disconnecting the formal identification of victims of THB from the criminal investigation and the presumed victim's co-operation in it;**
- **promoting multi-agency involvement in the identification of victims of trafficking by giving a formal role in the identification process to frontline actors such as NGOs, labour inspectors, social workers, health-care staff and other bodies which may come into contact with victims of trafficking;**
- **increasing efforts to proactively identify victims of THB for the purpose of labour exploitation, in particular in at-risk sectors, such as entertainment, agriculture, and the provision of personal care for the elderly, by involving labour inspectors and trade unions;**
- **providing sufficient human resources for the asylum reception centre, as well as training to staff to enable the identification of presumed victims of THB among asylum seekers.**

b. Assistance to victims (Article 12)

102. 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 child victims of trafficking (Article 12(7)). The Convention also establishes that the assistance to victims of THB must include appropriate and secure accommodation.

<sup>20</sup> Regulation (EU) No. 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person.

103. Assistance to victims of crime, including THB, is regulated by the Victims Assistance Act. Further, the Guidelines against Trafficking in Human Beings stipulate that victims of trafficking are to be given counselling and care. All presumed victims of THB are entitled to the same assistance measures, regardless of their migration status or country of origin. Assistance measures are financed by the general budget of the Victims Assistance Office, including expenses such as return flights for victims.

104. In theory only persons exploited in Liechtenstein are eligible for assistance measures, but the authorities explained to GRETA that, in practice, victims of THB exploited abroad would at least benefit from free advice from the Victims Assistance Office, and efforts would be made to find solutions for the victims, with the support of the NGOs Flüchtlingshilfe or Frauenhaus.

105. The Office of Social Services (ASD) ensures subsistence and access to emergency medical care for victims. For a victim to be eligible for medical assistance, reference must be made to a criminal offence which has caused the need for such assistance. Translation and interpretation services are provided by the Victims Assistance Office, the National Police or the Office of the Public Prosecutor.

106. As noted in paragraph 28, the Liechtenstein authorities co-operate with the Swiss NGO FIZ in the provision of assistance measures to any victims of THB detected in Liechtenstein. The Liechtenstein authorities pay FIZ for these services on a case-by-case basis. The services provided in co-operation and consultation with the Liechtenstein Victim Support Service include counselling and information in accordance with the Victims of Crime Act; crisis intervention and psychosocial counselling and assistance for those suffering from trauma; safe housing; liaising with authorities, lawyers, doctors, therapists and assisting with criminal proceedings and attending proceedings. By way of example, two presumed Thai male victims of THB were referred to the Victims Assistance Office, which in turn referred them to the NGO FIZ in Zurich.<sup>21</sup> The Victims Assistance Office ensures the payment of services provided by FIZ.

107. There are no specialised shelters for victims of THB in Liechtenstein, but the shelter run by the NGO Frauenhaus, for female victims of domestic violence, has in the past provided accommodation to presumed victims of THB. Presumed victims of THB detected in Liechtenstein can be accommodated for a few days at the Frauenhaus shelter, but should be transferred to the NGO FIZ in Zurich for specialised assistance.

108. According to the authorities, accommodation for male victims can be provided on a case-by-case basis. The previously mentioned two Thai male presumed victims stayed one night at the Frauenhaus shelter before moving to FIZ.

109. **GRETA urges the Liechtenstein authorities to ensure that all victims of THB under Liechtenstein jurisdiction, including asylum seekers and persons exploited abroad but identified in Liechtenstein, benefit from assistance measures in accordance with Article 12, Paragraph 1, of the Convention.**

110. Further, while welcoming the arrangements made with FIZ to assist victims of THB on a case-by-case basis, **GRETA considers that the Liechtenstein authorities should ensure that adequate financial and human resources are made available in Liechtenstein to enable all presumed and identified victims of THB to benefit from the assistance measures provided for under Article 12 of the Convention.**

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<sup>21</sup> <https://www.fiz-info.ch/en/Welcome>

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

111. The Guidelines against Trafficking in Human Beings (see paragraph 18) contain no specific procedures or guarantees for presumed child victims of THB.

112. In October 2015, the Roundtable on Trafficking in Human Beings, in co-operation with the Social Services, established a flowchart for intervention by the National Police when detecting children who beg, which defines the respective responsibilities of the National Police, the Office of Social Services, the Court of Justice, the Victims Assistance Office and the Liechtenstein Embassy in Bern. The flowchart covers procedures, responsibilities, financing of costs incurred, such as for accommodation, interpreter costs, medical care, as well as legal components. The flowchart was developed as a result of the detection in 2015 of a Romanian child involved in begging, who was considered to be a possible victim of THB for the purpose of exploitation of begging, but the Prosecutor decided to terminate the case because the Police could not gather enough evidence of THB. The flowchart has been made available to the relevant authorities, but no children involved in begging have been detected since 2015. GRETA notes that according to the statistics referred to in paragraph 11, one Romanian child was registered by the Liechtenstein authorities as a presumed victim of THB. According to the Liechtenstein authorities, the case was investigated, following which it was concluded that no offence had been committed and that there was thus no reason to take the child into State care in Liechtenstein. The child subsequently left the country.

113. The Office of Social Services is the competent authority for the protection of the best interests of the child and investigates any reported threats to the wellbeing of children. Pursuant to Article 1(g) of the Children and Youth Act, it would also be responsible for any children with an irregular migration status detected in Liechtenstein. Should there be a case of trafficking in children, the Office of Social Services would provide suitable accommodation for the child. Depending on the circumstances, the child would be placed with a foster family or under a social living arrangement, by the Association for Assisted Living, whose counsellors support the children accommodated. Access to health care for the child would also be ensured, and the Office of Social Services and the Office of Education would ensure access to education. Interpreters are generally involved to inform and advise children and young people with whom (sufficient) communication is otherwise not possible because they speak a foreign language. In the event of legal proceedings, a lawyer representing the child's legal interests would be assigned to the child.

114. Where needed, a court orders the transfer of custody of a child to the youth welfare office of the Social Services and a guardian is appointed without delay from among its staff. The employees entrusted with custody hold a university degree in social work, pedagogy or psychology and have years of professional experience, thus fulfilling the competence requirements.

115. The Migration and Passport Office is responsible for age assessments of young asylum seekers. Liechtenstein has mandated an expert in age assessment, who is based in the region of Vorarlberg in Austria. The age assessment is based on a forensic anthropological examination and body-imaging, X-rays of the hand/wrist and clavicle and dental analysis. GRETA notes that this method of age assessment does not take into account psychological, cognitive or behavioural factors. **GRETA invites the Liechtenstein authorities to review the age assessment procedures, ensuring that the best interests of the child are effectively protected, and taking into account the Convention on the Rights of the Child and General Comment No. 6 of the Committee on the Rights of the Child.**<sup>22</sup>

<sup>22</sup> [General Comment No. 6 Treatment of unaccompanied and separated children outside their country of origin, Committee on the Rights of the Child, Thirty-ninth session, 17 May - 3 June 2005.](#)

116. **GRETA urges the Liechtenstein authorities to take steps to improve the identification of child victims of trafficking and their referral to dedicated assistance services, in particular by:**

- **developing a procedure for identifying children, based on co-operation between relevant institutions, which takes account of the situation and specific needs of child victims of trafficking, with input from child protection specialists and a focus on the best interests of the child as the prime consideration;**
- **providing capacity-building to stakeholders (police, NGOs, child protection authorities, Migration and Passport Office, social workers) as well as guidance for the identification of child victims of THB for different purposes, including the exploitation of begging and exploitation of criminal activities.**

d. Protection of private life (Article 11)

117. In line with the confidentiality and data protection rules in Liechtenstein, no information regarding names or personal details of victims is provided to the media. Under Article 6(1) of the Media Act, the content of media must comply with the legal requirements for the protection of the personal sphere and of children.

e. Recovery and reflection period (Article 13)

118. 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.

119. The Guidelines against Trafficking in Human Beings stipulate that victims of trafficking are to be granted a recovery and reflection period of 30 days by the Migration and Passport Office. Where appropriate, this office issues a written confirmation stating that the victims are staying legally in Liechtenstein during their recovery and reflection period (although victims are more likely to be staying with the NGO FIZ in Zurich during this period).

120. As noted in paragraph 95, the National Police notifies the Migration and Passport Office as early as possible of any presumed victims of THB and applies for the appropriate measures under the Aliens Act. In practice, an application by FIZ on behalf of a presumed victim is also accepted. The Migration and Passport Office examines the application and grants the person concerned a reflection period in writing. The person concerned is requested to inform the Migration and Passport Office at the latest at the end of the recovery and reflection period whether s/he has agreed to co-operate with the criminal investigations, would like to apply for a residence permit on other grounds or intends to leave Liechtenstein. EU/EEA nationals, as well as third-country nationals, are eligible for a recovery and reflection period.

121. GRETA was informed that only one of the 11 presumed victims of THB (a Thai man) applied for and was granted a recovery and reflection period.

122. GRETA is concerned that, in the absence of an explicit legal framework concerning the recovery and reflection period, presumed victims of THB risk being deported, unless they are co-operating with the police, and not being given the time needed to recover from the trauma experienced and to make an informed decision on possible co-operation with the authorities. 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.

**123. Noting that domestic law must be brought into compliance with international obligations, GRETA urges the Liechtenstein authorities to provide in internal law a recovery and reflection period and to ensure, in compliance with Article 13 of the Convention, that all possible foreign victims of trafficking are offered such a period and all the measures of protection and assistance envisaged in Article 12, paragraphs 1 and 2, of the Convention during this period.**

f. Residence permits (Article 14)

124. Article 14(1) of the Convention provides for two bases upon which to issue 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.

125. In Liechtenstein, victims or witnesses of a crime such as THB can obtain short-term residence permits during the investigation and criminal proceedings on the basis of Article 25 of the Aliens Act. A short-term residence permit can be granted for up to one year; it can be extended by a maximum of six months if proof of an "extraordinary need" is provided (Article 25). There is no clear definition of an "extraordinary need" in the cases of victims or witnesses of crimes, but according to the Liechtenstein authorities, the threshold for establishing an extraordinary need would be low. Further, it is possible, based on Article 26 of the Aliens Act, to grant a residence permit when there is a well-founded purpose of the stay. This type of residence permit is usually granted for one year at a time and it is extendable if there are no grounds for revocation or expulsion.

126. Further, under certain conditions, a residence permit may be granted in cases of serious personal hardship (Article 21 of the Aliens Act, in conjunction with Article 15 of the Ordinance on the Admission and Stay of Foreigners). The conditions are: a) the existence of a serious personal emergency (excluding economic plight); b) possibility of sustainable integration; and c) respect for the legal order.

127. The Migration and Passport Office is responsible for issuing residence permits. The Victims Assistance Office may notify to the Migration and Passport Office if it considers a victim needs a residence permit.

128. No presumed victims of THB have been granted a residence permit of any kind in Liechtenstein.

**129. GRETA considers that the Liechtenstein authorities should make full use of the legal possibilities to grant residence permits to victims of THB and ensure that they are systematically informed of these possibilities. Officials of the Migration and Passport Office should be given clear guidance in this respect.**

g. Compensation and legal redress (Article 15)

130. 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.

131. The Victim Assistance Office may request a staff member of the Office of Justice to provide legal advice to victims and, if need be, a private lawyer can be contacted, at the expense of the Victims Assistance Office. The Victims Assistance Office will cover the costs of up to four hours of initial legal counselling. Further, the Court of Justice (first instance court) may, based on an application from a victim and depending on the victim's income, decide to appoint a lawyer to represent victims at court hearings.

132. Victims can claim compensation from the perpetrator, either in a criminal procedure or a separate civil procedure. Compensation claims can be made for pecuniary loss (e.g. loss of wages due to inability to work as a result of injuries caused by the perpetrator) and non-pecuniary damage (e.g. pain and suffering).

133. In cases where compensation from the perpetrator cannot be paid, either because of the perpetrator's personal circumstances or because the perpetrator is unknown, victims of crime impaired in their physical, sexual or psychological integrity can apply for compensation through the State under Article 18 of the Victim Assistance Act,<sup>23</sup> read in conjunction with Article 1325 of the Civil Code, on condition that the offence was committed in Liechtenstein.<sup>24</sup> Decisions about State compensation are taken by the Government of Liechtenstein as a whole<sup>25</sup> and paid out of the budget of the Victims Assistance Office. The Victims Assistance Office would assist the victim with the preparation of a civil compensation claim or a claim for State compensation.

134. No compensation of any kind has been paid to victims of THB in Liechtenstein as there have been neither formally identified victims, nor perpetrators convicted.

135. **GRETA considers that the Liechtenstein authorities should 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, at an early stage, in a language that they can understand, of the right to seek compensation from the perpetrator and the procedures to be followed;**
- **enable victims of trafficking to exercise their right to compensation by ensuring their effective access to legal aid and by including the issue of victim compensation in training programmes for lawyers, law enforcement officials, prosecution and the judiciary;**
- **ensure that victims are informed of the possibility to apply for State compensation, when compensation by the perpetrator is not possible, and are effectively enabled to receive it.**

<sup>23</sup> Including, amongst others, in cases of sexual assault that entail psychological damage and traumatic stress, cases of grievous bodily harm that entail a long healing process and/or permanent, severe bodily impairment and cases of massive, long-term domestic violence.

<sup>24</sup> Pursuant to Article 3(1) of the Victims Assistance Act.

<sup>25</sup> Decision by the five Ministers.

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

136. 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.

137. The Victims Assistance Office is mandated to provide assistance to victims in case of their return. By way of example, the Victims Assistance Office paid for the return flights to Thailand of two presumed victims of THB after they had spent a period of time with the NGO FIZ in Zurich.

138. According to the Liechtenstein authorities, when a removal order is issued, the National Police examines whether there are any legal obstacles to removal. Pursuant to the principle of *non-refoulement*, nobody is removed to a country where a person's life, limb or freedom are at risk or where there is a risk of inhuman or degrading treatment or punishment. Clarifications are carried out in this regard (if needed with the help of the Swiss authorities, which have more country-specific information). Apart from this, there is usually no particular co-operation with the country to which the person is to be returned, thus there is no assessment of risks of re-trafficking. Only in cases in which the person does not leave the country voluntarily are the options considered of accompanied return and receipt by the authorities of the State to which the person is to be returned. There have been cases of asylum seekers whom it has not been possible to return because of the situation in the country of origin. Any forced return would be ordered by the Migration and Passport Office and executed by the National Police. GRETA was informed that only one person was forcibly returned in 2017, whereas 47 failed asylum seekers left voluntarily.

139. According to the Liechtenstein authorities, in the event of a return of a child to his or her country of origin, the arrangements for a safe return and transfer of the child would be agreed with the competent authorities in the country of origin.

#### 140. **GRETA considers that the Liechtenstein authorities should:**

- **ensure that the return of victims of trafficking is conducted with due regard for their rights, safety and dignity. In the case of children, no return should be carried out before a thorough assessment of the child's best interest has been carried out and arrangements made for the necessary support measures upon arrival in the receiving country;**
- **develop international co-operation in order to ensure proper risk assessment, including as regards the risk of re-victimisation through re-trafficking, safe return, and effective reintegration of victims of THB;**
- **ensure compliance with the *non-refoulement* obligation under Article 40, paragraph 4, of the Convention;**
- **as regards victims of THB among asylum seekers, apply the 2006 UNHCR's Guidelines on the application of the Refugees Convention to trafficked people and their possible entitlement to asylum when deciding upon applications for asylum of persons who are at risk of being re-trafficked or otherwise persecuted should they be obliged to return to their State of origin or residence.<sup>26</sup>**

<sup>26</sup>

UNHCR, Guidelines on International Protection: The application of Article 1A(2) of the 1951 Convention and/or 1967

## 4. Substantive criminal law, investigation, prosecution and procedural law

### a. Substantive criminal law (Articles 18, 23, 24 and 25)

141. Pursuant to Article 18 of the Convention, Parties have the obligation to establish THB as a criminal offence when committed intentionally. In addition, forging travel or identity documents, removing, concealing or destroying them, as well as procuring or providing them, must be established as criminal offences, when committed intentionally and for the purpose of enabling THB (Article 20).

142. Under the current text of Article 104a, paragraph 3, of the CC of Liechtenstein, the punishment for the crime of THB in the absence of aggravating circumstances is imprisonment of up to only three years. As noted in paragraph 42, following amendments to this provision, which are due to enter into force in October 2019, the maximum penalties for THB will be increased to five years of imprisonment (10 years in the presence of aggravating circumstances).

143. The aggravating circumstances currently listed in Article 104a, paragraph 4, of the CC include trafficking of under-aged persons (i.e. children under the age of 14), THB as part of a criminal group, and the offence being committed with the use of severe force, in a life-threatening manner or grossly endangering an under-age person. Further, if an official commits any offence in his/her official capacity, the offence is punishable under Article 302 of the CC ("abuse of official powers").<sup>27</sup> Moreover, Article 33 of the CC provides for aggravating circumstances applicable to any crime.<sup>28</sup> Pursuant to the amendments which will enter into force on 1 October 2019, trafficking in children (i.e. all persons under 18 years of age) will be punishable by a prison sentence of a minimum of one year up to 10 years.

144. As noted in paragraph 43, slavery and slave trade are criminalised separately under Article 104 of CC, which reads as follows: "1) Any person engaging in the slave trade shall be punished with imprisonment of ten to twenty years. 2) Any person shall be punished likewise who causes another person to be enslaved or brought into a situation similar to slavery or causes another person to enter into slavery or a situation similar to slavery."<sup>29</sup>

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Protocol relating to the Status of Refugees to victims of trafficking, HCR/GIP/06/07, 7 April 2006.

<sup>27</sup> "An official who, with the intent to injure another person with respect to such other person's rights, knowingly abuses his/her powers to carry out official duties in the name of the state, a municipal association, a municipality, or another person under public law as a body thereof in the execution of the laws shall be punished with imprisonment of six months to five years."

<sup>28</sup> Aggravating circumstance apply if the perpetrator: 1) committed several offences of the same kind or continued the offence for an extended period of time; 2) already been convicted of an act arising from the same harmful inclination; 3) induced another person to commit the offence; 4) was the author or instigator of an offence committed by several persons or participated in such an act in a leading capacity; 5) acted for racist, xenophobic, or other especially reprehensible motives; 6) acted treacherously, cruelly or in manner inflicting agony on the victim; 7) when committing the act, exploited the defencelessness or helplessness of another person; 8) committed the act as part of a criminal group; 9) committed an offence in conscious and deliberate co-ordination with another person.

<sup>29</sup> Unofficial translation.



145. Article 217 of the CC (“trans-border prostitution trade”) is also relevant to action against THB. It reads as follows: “1) Any person who, even if the person concerned already engages in prostitution, arranges or recruits another person to engage in prostitution in a state other than such other person’s state of citizenship or habitual abode shall be punished with imprisonment of six months to five years, but if such person commits the act on a commercial basis, the punishment shall be imprisonment of one to ten years; 2) Any person who, with the intent to have another person (paragraph 1) engage in prostitution in a state other than such other person’s state of citizenship or habitual abode, induces such other person through deception regarding this plan or coerces such other person by force or a dangerous threat to go to another state, or, by force or by taking advantage of such other person’s mistake with regard to this plan, transports such other person to another state, shall be punished with imprisonment of one to ten years.”<sup>30</sup> GRETA notes that there appears to be a certain overlap between Articles 104a and 217 of the CC. According to a prosecutor met by GRETA during the visit, there are no practical difficulties in distinguishing between these two provisions.

146. Forced marriage is a stand-alone offence under Article 106(1)(3) of the CC. Illegal adoption is criminalised under Article 193a (unlawful adoption placements) and Article 194 (removal of a minor from the custody of the parent or legal guardian) of the CC.

147. Sentencing takes into account whether or not an accused person has already been convicted of relevant offences (Article 33(2) of the CC); thus, a previous conviction may be considered an aggravating circumstance. Under Article 73 of the CC, unless the law expressly refers to conviction by a domestic court, foreign convictions are deemed equivalent to domestic convictions if the criminal act is also punishable under the laws of Liechtenstein, and if they were imposed in proceedings according to the principles of Article 6 of the European Convention on Human Rights. These conditions are met in cases of THB.

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

148. 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). This provision targets the client, whether of a victim of trafficking for sexual exploitation or of a victim of forced labour or services, slavery or practices similar to slavery, servitude or organ removal.<sup>31</sup>

149. As noted in paragraph 83, using knowingly services of a victim of trafficking in human beings is not punishable under Liechtenstein law. Noting the particular relevance of this provision in countries of destination, **GRETA invites the Liechtenstein authorities to adopt legislative measures to criminalise the use of services with the knowledge that the person is a victim of THB, regardless of the form of exploitation, as stipulated by Article 19 of the Convention.**

c. Corporate liability (Article 22)

150. The liability of legal persons is set out in Article 74a et seq. of the CC. Under Article 74a(1) of the CC, legal persons are liable for any misdemeanours and crimes committed by their managers unlawfully and culpably in their capacity in the performance of business activities and within the framework of the purpose of the legal person. According to Article 74a(2) of the CC, these provisions cover legal persons entered in the Commercial Register, as well as legal persons which neither have their domicile nor a place of operation or establishment in Liechtenstein, insofar as these would have to be entered in the Commercial Register under domestic law, and foundations and associations not entered in the Commercial Register as well as foundations and associations which neither have their domicile nor a place of operation or establishment in Liechtenstein. The liability of legal persons also applies to cases of trafficking in human beings. There is no case law in this respect.

<sup>30</sup> Unofficial translation.

<sup>31</sup> Explanatory Report on the Convention, paragraph 231.

151. **GRETA invites the Liechtenstein authorities to ensure that any offences related to THB committed by legal persons, including financial institutions, are effectively investigated and prosecuted.**

d. Non-punishment of victims of trafficking in human beings (Article 26)

152. 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.

153. Under Article 10 of the CC (“exculpatory situation of necessity”), a person who acted to avert an imminent and substantial disadvantage from himself or herself or another person shall be exculpated if the damage threatened by the act is not disproportionately more severe than the disadvantage the act is meant to avert, and if a person in the perpetrator’s situation who is committed to the legally protected values could not be expected to behave differently. The Liechtenstein authorities have stressed that guilt is considered a precondition for a punishment and thus a victim of THB, having been coerced to an illegal act, would not be considered punishable.

154. According to Article 83, paragraph 1, of the Aliens Act, a person who is present in the country irregularly can be punished with a prison sentence of up to one year or a fine of up to 360 daily units. According to Article 83, paragraph 3, of the Aliens Act, it is possible to refrain from prosecuting persons residing in Liechtenstein irregularly if they are deported immediately.

155. The Liechtenstein authorities stated that the non-punishment principle was applied in the case of two Thai men who were presumed victims of THB, in that the prosecutor decided not to prosecute them for being irregularly present in Liechtenstein. The two men left Liechtenstein voluntarily after being assisted by the NGO FIZ (see paragraph 108).

156. **GRETA urges the Liechtenstein authorities to ensure compliance with Article 26 of the Convention through the adoption of a provision on the non-punishment of victims of trafficking for their involvement in unlawful activities, to the extent that they were compelled to do so, and/or by developing relevant guidance. Public prosecutors should be encouraged to be proactive in establishing whether an accused person is a potential victim of trafficking. While the identification procedure is on-going, 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.<sup>32</sup>

e. Investigation, prosecution and procedural law (Articles 1, 27 and 29)

157. 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).

158. As noted in paragraph 23, prosecution is in principle initiated *ex officio* by the Office of the Public Prosecutor.

<sup>32</sup> <http://www.osce.org/secretariat/101002?download=true>

159. Between 2012 and 2017, the National Police conducted a total of four investigative proceedings on suspicion of trafficking in human beings under Article 104a of the CC. Three of the investigations concerned suspected THB for sexual exploitation and one, conducted in 2015, THB for the purpose of exploitation of begging. Three investigative proceedings were terminated with the conclusion that the suspicions of THB could not be substantiated, while one is pending and is linked to exploitation having taken place in Switzerland. As regards other offences which could be related to THB, in the period 2009-2017, the National Police carried out a total of seven investigations into suspected cases of prostitution under Articles 210,<sup>33</sup> 215,<sup>34</sup> 215a,<sup>35</sup> 216<sup>36</sup> and 217<sup>37</sup> of the CC. Three of these investigations have been discontinued and four are pending.

160. Pursuant to Article 20 of the CC (forfeiture/seizure), the court must declare assets that were obtained for or through the commission of a criminal act to be forfeited. Under Article 97a, paragraph 1, sub-paragraph 3, of the CCP, the freezing of credit balances or other assets may be ordered by a court if it is feared that collection of the assets would otherwise be endangered or considerably impeded.

161. According to the Liechtenstein authorities, financial investigations are always part of crime investigations. In the case of two Thai men who had been engaged in prostitution, the man who rented rooms to them for this purpose, at an exorbitant rate, was convicted of pimping, fraud and money laundering (based on the CC), as well as of encouragement of unlawful entry and period of stay in Liechtenstein (based on the Aliens Act) and of transgression of Article 21 (1) of the Narcotics Act. The perpetrator was given a conditional/suspended prison sentence of five months. Forfeiture, under Article 20 of the CC, of the rent paid by the Thai men to the perpetrator landlord for the rooms, was not possible because the perpetrator had no assets left.

162. According to Article 103 of the CCP, special investigation techniques such as surveillance of electronic communications can be used by the National Police, on the order of an investigating judge, who in turn needs the approval of the President of the Court of Appeal. Permission can be granted for using such techniques, if the foreseen punishment for the crime investigated is at least one year's imprisonment (Article 103 of the CCP). The police can observe persons for up to 48 hours without permission from a judge, as long as they do not use any technical equipment for it (Article 104 of the CCP). No special investigation techniques have so far been used in THB cases in Liechtenstein.

163. There is no particular body mandated to monitor the Internet for illegal materials in Liechtenstein, although there are some foreign initiatives, such as the Co-ordination Unit of Switzerland (CYCO) in charge of monitoring the Internet for child abuse images. Should it discover such images on a Liechtenstein website, it will inform the Liechtenstein Police. The liability of Internet service providers in case of infringements is mainly regulated in laws related to e-commerce. As a rule, Internet providers can only be held liable if it can be proven that they knew about illegal content and in that case did not take prompt measures to remove it. There is no legislation on filtering Internet content in Liechtenstein.

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<sup>33</sup> Article 210: "offering oneself for prostitution".

<sup>34</sup> Article 215: "leading to prostitution" (*Zuführen zur Prostitution*).

<sup>35</sup> Article 215a: "promotion of prostitution and pornographic performances by children".

<sup>36</sup> Article 216: "pimping".

<sup>37</sup> Article 217: "trans-border prostitution trade".

164. Article 25d, paragraph 4 (a), of the Police Act enables the police to demand the deletion of a website containing materials which incite to violence if the material is stored on a computer located in Liechtenstein. When the materials in question are stored outside Liechtenstein, the police can recommend to Liechtenstein providers to block such materials, but cannot enforce the blocking. Furthermore, Article 47, paragraph 1 of the Media Act gives courts the possibility to order the removal of illegal content in online media, if such content constitutes an offence related to media. However, the law does not allow courts to order the blocking of an entire website. If publishing illegal content other than those containing propaganda or media offences constitutes a criminal act, it is not possible to obtain removal or take-down of such content. In practice, the only measure available to the relevant authorities is confiscating the very computer that contains the illegal data published online.

165. **GRETA considers that the Liechtenstein authorities should take further steps to ensure that THB offences for all types of exploitation are proactively investigated and promptly prosecuted, leading to proportionate and dissuasive sanctions, by:**

- **providing further training to police officers and prosecutors to investigate and prosecute cases of THB, including through co-operation with other relevant actors and countries;**
- **making use of special investigation techniques in suspected cases of THB with a view to ensuring that evidence is obtained at as early a stage of the investigation as possible;**
- **systematically carrying out financial investigations in human trafficking cases with a view to seizing and confiscating criminal assets and in this context ensuring that bank secrecy rules are not an impediment.**

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

166. By virtue of Article 28 of the Convention, Parties must take measures to provide effective and appropriate protection from potential retaliation or intimidation, in particular during and after the investigation and prosecution of perpetrators. This protection can be of various types (including physical, relocation, identity change) 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.

167. The rights of victims in criminal proceedings are set out in Articles 31a and 31b of the CCP. These provisions refer to the support victims are entitled to receive from the Victims Assistance Office and the obligation of all authorities involved in the criminal procedures to inform victims about their rights at all stages of the process. Victims whose sexual integrity has been violated have the right to refuse answering detailed questions about their private life or the details of the offence and they can demand that their cases in court be held *in camera*. Further, Article 115(a) of the CCP allows witnesses and victims to testify via video link in court.

168. As regards child victims or witnesses, they are as a rule not confronted with the defendant in court. There is an interview room in the Court of Justice which is set up to provide a comfortable environment for child victims and witnesses. Psychologists are often called on to assess the psychological state of children interviewed in the context of court hearings, in view of assessing the reliability of their testimony.

169. The police are responsible for ensuring the protection of victims of THB. GRETA was informed that the police would take into account the protection needs of victims of THB and if necessary consult with the competent domestic and foreign authorities. The police could also apply to the government to grant extrajudicial witness protection to a victim of THB, pursuant to Article 30d of the Police Act. There have been no cases so far in which such protection was provided to victims of THB.

170. There is no role foreseen for NGOs as support persons for victims or witnesses of THB in criminal procedures or court hearings, but GRETA was told that an employee of the Victims Assistance Centre could accompany a victim in court. In addition, it would be possible for a representative of FIZ to do the same.

**171. GRETA invites the Liechtenstein authorities to ensure that all measures to protect victims of criminal offences are available in practice to victims of THB, witnesses and their legal representatives, to prevent reprisals and intimidation during investigation, as well as during and after the court proceedings.**

g. Jurisdiction (Article 31)

172. Liechtenstein has jurisdiction over all offences committed on Liechtenstein soil, irrespective of where the complaint was submitted. Under Article 64, paragraph 1, sub-paragraph 4a, of the CC, Liechtenstein also has jurisdiction over cases of trafficking in human beings if the act was committed abroad and certain conditions are met. Cases of trafficking in human beings committed abroad are punished irrespective of the laws of the place where the act is committed if the perpetrator or the victim is a Liechtenstein citizen or has his or her place of residence or habitual abode in Liechtenstein, if the act has violated other Liechtenstein interests, or if the perpetrator was, at the time of the offence, a foreign national who is in Liechtenstein and cannot be extradited.

## **5. International co-operation (Article 32)**

173. 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).

174. International administrative assistance pursuant to Article 35 et seq. of the Police Act forms the basis for international police co-operation. In practice, the most important international instrument in this area is the Trilateral Police Co-operation Treaty between the Principality of Liechtenstein, the Swiss Confederation, and the Republic of Austria on Cross-Border Police Co-operation.

175. Liechtenstein signed co-operation agreements with Europol and Eurojust on 7 June 2013.

176. The police may share information under Article 10 of the Trilateral Police Co-operation Treaty or within the framework of international administrative assistance under Articles 35(2)(b) and 35f of the Police Act. Article 54a of the Mutual Assistance Act provides that the Liechtenstein Court of Justice may spontaneously transmit to a foreign authority information that it has obtained for its own criminal proceedings if the enumerated conditions are met.

177. The Liechtenstein Court of Justice confirms requests for mutual legal assistance and informs the requesting State of the name and contact details of the competent judge as well as the file number. Any queries or instructions to remedy the request are submitted in writing to the requesting State. Execution of the request and any transmission of documents also take place in writing and by post.

178. Liechtenstein co-operates actively with Switzerland and Austria, including as regards co-operation between police forces. In the case of the investigations into possible trafficking of dancers from the Dominican Republic, the Liechtenstein police co-operated with their counterparts in the Dominican Republic. Training of professional groups such as the police mainly takes place in Switzerland and Austria.

179. As noted in paragraph 28, the Victim Assistance Office co-operates with FIZ in Zurich, which provides advocacy and support for migrant women and victims of THB, whereby victims of THB detected in Liechtenstein would, as a rule, be referred for rehabilitation to FIZ.

180. Liechtenstein has launched the "Liechtenstein Initiative" for a Financial Sector Commission (FSC) on Modern Slavery and Human Trafficking, which it pursues in international fora, such as the UN. The project has been developed jointly by the Government of Liechtenstein and the United Nations University's Centre for Policy Research, in partnership with the Government of Australia, a consortium of Liechtenstein banks and the Liechtenstein banking association. The overall aim of the initiative is to end THB and modern slavery in line with the United Nations 2030 Agenda for Sustainable Development. To this end, the initiative promotes access to formal financial services and credits, such as microcredits, and human rights diligence by companies in supply chains.

181. Liechtenstein supports a number of development co-operation projects with CHF 22.4 million per year, in particular in Africa. While these projects are not explicitly aimed at preventing THB, it is considered that they may have a preventive effect.

**182. GRETA welcomes Liechtenstein's involvement in international co-operation against human trafficking and invites the authorities to continue and further develop this co-operation, in particular as regards training of relevant professionals, protection of victims and criminal investigation of cross-border cases.**

## **IV. Concluding remarks**

183. GRETA welcomes the steps taken by the Liechtenstein authorities to combat trafficking in human beings, through the adoption of legislation and Guidelines against Trafficking in Human Beings, and the setting up of a Roundtable on Trafficking in Human beings.

184. While GRETA acknowledges the steps taken so far, several important challenges remain to be tackled through legislative, policy or practical measures, in order to meet the requirements of the human-rights based and victim-centred approach followed by the Convention (see paragraphs 31-34).

185. The Convention requires Parties to ensure that anti-trafficking action is comprehensive. GRETA stresses the need for adopting a policy document (e.g. action plan) which goes beyond the scope of the Guidelines against Trafficking in Human Beings and covers prevention as well as the provision of training.

186. In the area of prevention, more attention should be paid to trafficking for the purpose of labour exploitation, through training labour inspectors, paying particular attention to at-risk sectors and reviewing the regulatory systems concerning domestic and personal care workers.

187. It is incumbent on the authorities to ensure that all victims of trafficking are properly identified and can benefit from the assistance and protection measures under the Convention. Sufficient human resources should be provided to the asylum reception centre, as well as training to its staff, to enable identification of victims of trafficking among asylum seekers. A procedure for identifying child victims of trafficking should be developed, with input from child protection specialists.

188. Furthermore, the right of presumed victims of trafficking to a recovery and reflection period of at least 30 days should be provided for in internal law, and victims' effective access to this entitlement must be ensured.

189. Specific legislation and/or guidance on the non-punishment of victims of trafficking for their involvement in unlawful activities, to the extent that they were compelled to do so, must be developed in order to comply with Article 26 of the Convention.

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190. All professionals who may come into contact with victims of human trafficking, including law enforcement officials, prosecutors, judges, labour inspectors, lawyers, asylum officers, social workers, child care professionals, medical and educational staff must be continuously informed and trained about THB, including their obligation 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.

191. GRETA invites the Liechtenstein authorities to keep it informed on a regular basis of developments in the implementation of the Convention, including as regards relevant legislative or policy developments and the work of the Roundtable on Trafficking in Human Beings.

## **Appendix I: List of GRETA's proposals**

### **National Action Plan**

1. With a view to meeting the obligations under the Convention and adopting a comprehensive approach to the fight against THB, GRETA urges the Liechtenstein authorities to adopt an action plan or other policy document which addresses all aspects of the fight against trafficking in human being, including prevention and the provision of training to relevant professionals.

### **Definition of "trafficking in human beings"**

2. GRETA urges the Liechtenstein authorities to include slavery, practices similar to slavery and servitude as types of exploitation in the legal definition of trafficking in human beings in Article 104a of the CC.

3. GRETA considers that stating explicitly in law 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 considers that the Liechtenstein authorities should take further steps to ensure that national action to combat THB is comprehensive, including by:

- involving more stakeholders, such as members of the judiciary, NGOs and other members of civil society in action against THB, including in the work of the Roundtable, and encouraging the conclusion of Memoranda of Understanding with relevant NGOs;
- paying increased attention to prevention and protection measures for groups at risk of THB, such as nightclub dancers, agricultural workers under trainee contracts, personal care workers for the elderly and asylum seekers.

### **Training of relevant professionals**

5. GRETA urges the Liechtenstein authorities to ensure that training on THB (in particular on the definition and indicators of THB, detection of vulnerable individuals and groups, identification, assistance and compensation of victims) is systematically provided to relevant professionals, such as law enforcement officials, prosecutors, judges, labour inspectors, lawyers, asylum officers, social workers, child care professionals, medical and educational staff. NGOs and trade unions should also be involved in such training.

### **Data collection and research**

6. In order to create an evidence base for future policy measures, GRETA urges the Liechtenstein authorities to, set up and maintain a comprehensive and coherent statistical system on THB by compiling reliable statistical data from all main actors, including specialised NGOs, on measures to protect and promote the rights of victims as well as on investigations, prosecutions, convictions and compensations in human trafficking cases. 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.

7. GRETA considers that the Liechtenstein authorities should conduct and support research related to the phenomenon of THB as an evidence base for future policy measures.



**Measures to raise awareness (Article 5)**

8. GRETA considers that the Liechtenstein authorities should develop initiatives to raise awareness of THB for different forms of exploitation amongst the general public, groups considered at risk and service providers, including the financial sector. Awareness-raising should be accompanied by research and the impact of the measures should be assessed.

**Measures to prevent labour exploitation (Article 5)**

9. GRETA urges the Liechtenstein authorities to take additional measures to prevent trafficking for the purpose of labour exploitation, in particular by:

- training labour inspectors on detecting THB for the purpose of labour exploitation and the rights of victims;
- using interpreters during labour inspections of places of work at which foreigners with insufficient command of German or other languages spoken by the labour inspectors work;
- paying particular attention to at-risk groups, such as persons employed to provide personal care for the elderly, and foreign agricultural workers employed on trainee contracts, based on which employers rather than the workers apply for residence permits for the latter, with the potential risk of abuse this procedure entails;
- review the regulatory systems concerning domestic and personal care workers and ensure that inspections can take place in private households with a view to preventing abuse and detecting cases of human trafficking;
- working closely with the private sector, in line with the Guiding Principles on Business and Human Rights.

**Measures to prevent trafficking in children (Article 5)**

10. GRETA considers that the Liechtenstein authorities should take additional measures to prevent trafficking in children, in particular by:

- raising public awareness about the risks and manifestations of child trafficking;
- sensitising and training child professionals about THB, how to prevent it and how to report possible cases to the competent authorities;
- promoting online safety of children and alerting relevant actors of the risks of trafficking in children committed via the Internet.

**Measures to discourage demand (Article 6)**

11. GRETA considers that the Liechtenstein authorities should make efforts to discourage demand for the services of trafficked persons, in partnership with the private sector and civil society.

**Measures to prevent trafficking in human beings for the purpose of organ removal (Article 5)**

12. GRETA encourages the Liechtenstein authorities to sign and ratify the Council of Europe Convention against Trafficking in Human Organs as this would contribute to the prevention of trafficking for the purpose of organ removal.

### **Identification of victims of trafficking in human beings (Article 10)**

13. GRETA urges the Liechtenstein authorities to take further steps to ensure that all victims of trafficking are identified as such and can benefit from the assistance and protection measures contained in the Convention, in particular by:

- disconnecting the formal identification of victims of THB from the criminal investigation and the presumed victim's co-operation in it;
- promoting multi-agency involvement in the identification of victims of trafficking by giving a formal role in the identification process to frontline actors such as NGOs, labour inspectors, social workers, health-care staff and other bodies which may come into contact with victims of trafficking;
- increasing efforts to proactively identify victims of THB for the purpose of labour exploitation, in particular in at-risk sectors, such as entertainment, agriculture, and the provision of personal care for the elderly, by involving labour inspectors and trade unions;
- providing sufficient human resources for the asylum reception centre, as well as training to staff to enable the identification of presumed victims of THB among asylum seekers.

### **Assistance to victims (Article 12)**

14. GRETA urges the Liechtenstein authorities to ensure that all victims of THB under Liechtenstein jurisdiction, including asylum seekers and persons exploited abroad but identified in Liechtenstein, benefit from assistance measures in accordance with Article 12, Paragraph 1, of the Convention.

15. GRETA considers that the Liechtenstein authorities should ensure that adequate financial and human resources are made available in Liechtenstein to enable all presumed and identified victims of THB to benefit from the assistance measures provided for under Article 12 of the Convention.

### **Identification and assistance of child victims of trafficking (Articles 10 and 12)**

16. GRETA invites the Liechtenstein authorities to review the age assessment procedures, ensuring that the best interests of the child are effectively protected, and taking into account the Convention on the Rights of the Child and General Comment No. 6 of the Committee on the Rights of the Child.

17. GRETA urges the Liechtenstein authorities to take steps to improve the identification of child victims of trafficking and their referral to dedicated assistance services, in particular by:

- developing a procedure for identifying children, based on co-operation between relevant institutions, which takes account of the situation and specific needs of child victims of trafficking, with input from child protection specialists and a focus on the best interests of the child as the prime consideration;
- providing capacity-building to stakeholders (police, NGOs, child protection authorities, Migration and Passport Office, social workers) as well as guidance for the identification of child victims of THB for different purposes, including the exploitation of begging and exploitation of criminal activities.

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

18. Noting that domestic law must be brought into compliance with international obligations, GRETA urges the Liechtenstein authorities to provide in internal law a recovery and reflection period and to ensure, in compliance with Article 13 of the Convention, that all possible foreign victims of trafficking are offered such a period and all the measures of protection and assistance envisaged in Article 12, paragraphs 1 and 2, of the Convention during this period.

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

19. GRETA considers that the Liechtenstein authorities should make full use of the legal possibilities to grant residence permits to victims of THB and ensure that they are systematically informed of these possibilities. Officials of the Migration and Passport Office should be given clear guidance in this respect.

### **Compensation and legal redress (Article 15)**

20. GRETA considers that the Liechtenstein authorities should 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, at an early stage, in a language that they can understand, of the right to seek compensation from the perpetrator and the procedures to be followed;
- enable victims of trafficking to exercise their right to compensation by ensuring their effective access to legal aid and by including the issue of victim compensation in training programmes for lawyers, law enforcement officials, prosecution and the judiciary;
- ensure that victims are informed of the possibility to apply for State compensation, when compensation by the perpetrator is not possible, and are effectively enabled to receive it.

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

21. GRETA considers that the Liechtenstein authorities should:

- ensure that the return of victims of trafficking is conducted with due regard for their rights, safety and dignity. In the case of children, no return should be carried out before a thorough assessment of the child's best interest has been carried out and arrangements made for the necessary support measures upon arrival in the receiving country;
- develop international co-operation in order to ensure proper risk assessment, including as regards the risk of re-victimisation through re-trafficking, safe return, and effective reintegration of victims of THB;
- ensure compliance with the *non-refoulement* obligation under Article 40, paragraph 4, of the Convention;
- as regards victims of THB among asylum seekers, apply the 2006 UNHCR's Guidelines on the application of the Refugees Convention to trafficked people and their possible entitlement to asylum when deciding upon applications for asylum of persons who are at risk of being re-trafficked or otherwise persecuted should they be obliged to return to their State of origin or residence.

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**Substantive criminal law (Articles 18, 23, 24 and 25)**

22. GRETA invites the Liechtenstein authorities to adopt legislative measures to criminalise the use of services with the knowledge that the person is a victim of THB, regardless of the form of exploitation, as stipulated by Article 19 of the Convention.

**Corporate liability (Article 22)**

23. GRETA invites the Liechtenstein authorities to ensure that any offences related to THB committed by legal persons, including financial institutions, are effectively investigated and prosecuted.

**Non-punishment of victims of trafficking in human beings (Article 26)**

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

**Investigation, prosecution and procedural law (Articles 1, 27 and 29)**

25. GRETA considers that the Liechtenstein authorities should take further steps to ensure that THB offences for all types of exploitation are proactively investigated and promptly prosecuted, leading to proportionate and dissuasive sanctions, by:

- providing further training to police officers and prosecutors to investigate and prosecute cases of THB, including through co-operation with other relevant actors and countries;
- making use of special investigation techniques in suspected cases of THB with a view to ensuring that evidence is obtained at as early a stage of the investigation as possible;
- systematically carrying out financial investigations in human trafficking cases with a view to seizing and confiscating criminal assets and in this context ensuring that bank secrecy rules are not an impediment.

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

26. GRETA invites the Liechtenstein authorities to ensure that all measures to protect victims of criminal offences are available in practice to victims of THB, witnesses and their legal representatives, to prevent reprisals and intimidation during investigation, as well as during and after the court proceedings.

**International co-operation (Article 32)**

27. GRETA welcomes Liechtenstein's involvement in international co-operation against human trafficking and invites the authorities to continue and further develop this co-operation, in particular as regards training of relevant professionals, protection of victims and criminal investigation of cross-border cases.

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## **Appendix II: List of public bodies, intergovernmental projects, non-governmental organisations and other civil society actors with which GRETA held consultations**

### **Public bodies**

- National Police, including Chairman of the National Roundtable on Trafficking in Human Beings
- Migration and Passport Office
- Office of Economic Affairs including Labour Inspection Bureau
- Office for Foreign Affairs
- Office for Social Services, including the Children and Youth Service Division
- Victim Support Office
- Prosecution Service
- Court of Justice
- Parliament
- National Institution for Human Rights

### **Intergovernmental project**

- Financial Sector Commission on Modern Slavery and Human Trafficking

### **Civil society organisations**

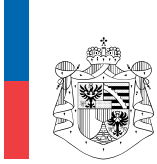
- Amnesty International
- Frauenhaus
- Infra
- Liechtensteinischer ArbeitnehmerInnenverband (LANV)
- Liechtenstein University

## **Government's comments**

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

GRETA engaged in a dialogue with the Liechtenstein 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 Liechtenstein authorities on 23 July 2019 and invited them to submit any final comments. The comments of the authorities, submitted on 13 September 2019, are reproduced hereafter.



Vaduz, 10 September 2019

**Comments on the final report concerning the implementation of the Convention on Action against Trafficking in Human Beings in Liechtenstein (first and second evaluation rounds)**

In light of the final version of the report by the Council of Europe's Group of Experts on Action against Trafficking in Human Beings (GRETA) concerning the implementation of the Convention by Liechtenstein, received on 23 July 2019, the Government of Liechtenstein has adopted the following comments on 10 September 2019.

Liechtenstein highly values the dialogue with GRETA on possibilities to further improve the prevention and prosecution of cases of human trafficking and the protection of its victims. Liechtenstein welcomes the proposals made by GRETA and will carefully consider their implementation. The evaluation process was an opportunity to look into the structures and mechanisms of combating human trafficking. Liechtenstein continues its commitment to combating human trafficking both within the country and in international fora, namely the Council of Europe, the United Nations, and the Organization for Security and Cooperation in Europe, particularly through projects such as the Financial Sector Commission on Modern Slavery and Human Trafficking.

Concerning the final report adopted by GRETA on 11 July 2019, Liechtenstein would like to make comments and clarifications with regard to the following paragraphs.

**Para. 14**

The number of asylum applications in Liechtenstein was 154 in 2015, 83 in 2016, 152 in 2017 and 157 (as per 31 October 2018) at the time of GRETA's visit in November 2018.

**Para. 58**

The NGO Flüchtlingshilfe has been allocated an annual training budget since 2017.

**Para. 73**

The Posting of Workers Act requires that posted workers are granted at least similarly beneficial terms as those to which all employees in Liechtenstein are entitled.

**Para. 74**

The sentence in the fourth line should correctly refer to the Labour Act instead of the Labour Law.

**Para. 79**

According to art. 9 para. 2 of the Asylum Ordinance, the NGO Flüchtlingshilfe is responsible for the accommodation and care of asylum seekers above 16 years of age if the Office of Social Services does not object in the specific case. The Office of Social Services is informed about every asylum seeker under 18 years of age and assesses the specific situation.

**Para. 99 and para. 101**

The reception centre for asylum seekers has 95 regular places and the NGO Flüchtlingshilfe has 3.8 full-time employees.

**Para. 138**

When a removal order is issued, the Migration and Passport Office and the National Police jointly examine whether there are any legal obstacles to removal.

**Para. 187**

See comment on para. 99 and para. 101.