



**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 Italy**

**SECOND EVALUATION ROUND**

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## Preamble

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

GRETA is composed of 15 independent and impartial experts coming from a variety of backgrounds, who have been selected on the basis of their professional experience in the areas covered by the Convention. The term of office of GRETA members is four years, renewable once.

GRETA's country-by-country monitoring deals with all parties to the Convention on an equal footing. In accordance with Article 38, paragraph 1, of the Convention, GRETA evaluates the implementation of the Convention following a procedure divided into rounds. At the beginning of each round, GRETA selects the specific provisions on which the evaluation procedure is to be based and defines the most appropriate means to carry out the evaluation. GRETA adopts a questionnaire for each evaluation round which serves as the basis for the evaluation and is addressed to all parties.

The first evaluation round was launched in February 2010 and the questionnaire for this round was sent to all parties according to a timetable adopted by GRETA, which reflected the time of entry into force of the Convention for each party. GRETA organised country visits to all parties in order to collect additional information and have direct meetings with relevant actors, both governmental and non-governmental. By the beginning of 2014, most of the parties had been or were being evaluated for the first time, whilst the number of parties to the Convention continues to grow.

GRETA decided to launch the second evaluation round of the Convention on 15 May 2014. Following the first round of monitoring, which provided an overview of the implementation of the Convention by each party, GRETA has decided to examine during this new evaluation round the impact of legislative, policy and practical measures on the prevention of trafficking, the protection of the rights of victims of trafficking, and the prosecution of traffickers. The adoption of a human rights-based approach to action against trafficking in human beings remains at the centre of the second evaluation round. In addition, particular attention is paid to measures taken to address new trends in human trafficking and the vulnerability of children to trafficking. For the second evaluation round, GRETA has adopted a questionnaire to be sent to all states parties which have undergone the first round of evaluation, following a timetable approved by GRETA.

GRETA's reports are based on information gathered from a variety of sources and contain recommendations intended to strengthen the implementation of the Convention by the party concerned. In its recommendations, GRETA has adopted the use of three different verbs - "urge", "consider" and "invite" - which correspond to different levels of urgency of the recommended action for bringing the party's legislation and/or practice into compliance with the Convention. GRETA uses the verb "urge" when it assesses that the country's legislation or policy are not in compliance with the Convention, or when it finds that despite the existence of legal provisions and other measures, the implementation of an obligation of the Convention is lacking. In other situations, GRETA "considers" that it is necessary to make improvements in order to fully comply with an obligation of the Convention. By "inviting" a country to pursue its efforts in a given area, GRETA acknowledges that the authorities are on the right track.

As regards the procedure for the preparation of reports, GRETA examines a draft report on each party in a plenary session. The process of confidential dialogue with the national authorities allows the latter to provide, within two months, comments on GRETA's draft report with a view to providing additional information or correcting any possible factual errors. These comments are taken into account by GRETA when establishing its final report. The 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 GRETA's report, together with eventual final comments made by the national authorities, is made public and sent to the Committee of the Parties to the Convention.

## I. Introduction

1. The first evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings ("the Convention") by Italy took place in 2013-2014. Following the receipt of Italy's reply to GRETA's first questionnaire on 4 June 2013, a country evaluation visit was organised from 2 to 6 December 2013. The draft report on Italy was examined at GRETA's 19th meeting (17-21 March 2014) and the final report was adopted at GRETA's 20th meeting (30 June - 4 July 2014). Following the receipt of the Italian authorities' comments, GRETA's final report was published on 22 September 2014.<sup>1</sup>

2. In its first evaluation report, GRETA noted the important steps taken by Italy to combat trafficking in human beings (THB), through the adoption of legislation and the setting up of assistance and social integration projects. While acknowledging the role played by the Department for Equal Opportunities, GRETA urged the Italian authorities to strengthen the institutional framework for action against THB in order to improve co-ordination and ensure a more effective involvement of all relevant public bodies and civil society organisations. GRETA stressed the importance of adopting as a matter of urgency a comprehensive national anti-trafficking action plan. Further, GRETA called upon the Italian authorities to strengthen action to combat trafficking for the purpose of labour exploitation, to increase prevention and protection measures that address the particular vulnerability of children to trafficking, and to make measures to reduce the vulnerability of irregular migrants to trafficking. GRETA commended the awareness-raising initiatives at regional and local level, but stressed the importance of developing country-wide awareness raising about all forms of human trafficking. GRETA also urged the authorities to increase their efforts to discourage demand as a root cause of human trafficking.

3. GRETA was concerned by the absence of national guidelines or agreed procedures for the identification of victims of trafficking and urged the Italian authorities to introduce a National Referral Mechanism and to ensure that frontline staff adopt a proactive approach to detecting and identifying victims of trafficking. While commending the work of civil society organisations and local actors providing assistance to victims, GRETA urged the Italian authorities to ensure that assistance is not made conditional on victims' co-operation in the investigation and criminal proceedings, and that long-term funding is provided to organisations running victim assistance projects. Further, GRETA urged the Italian authorities to specifically define the recovery and reflection period in law, and to ensure that victims have effective access to legal assistance and compensation. GRETA was concerned by reports indicating that victims of trafficking were sometimes convicted of criminal offences, in particular linked to irregular migration, and urged the Italian 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 was also concerned by the low number of convictions for THB and urged the Italian authorities to strengthen their efforts to ensure that crimes related to trafficking for all types of exploitation are proactively investigated and prosecuted promptly and effectively, leading to proportionate and dissuasive sanctions.

4. On the basis of GRETA's report, on 5 December 2014 the Committee of the Parties to the Convention adopted a recommendation to the Italian authorities, requesting them to report back on measures taken by 5 December 2016.<sup>2</sup> The report submitted by the Italian authorities was considered at the 20th meeting of the Committee of the Parties (10 March 2017). The Committee of the Parties decided to transmit the authorities' report to GRETA for consideration and to make it public.<sup>3</sup>

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<sup>1</sup> Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Italy, GRETA(2014)18, available at: <http://rm.coe.int/1680631cc1>

<sup>2</sup> Recommendation CP(2014)16 on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Italy, adopted at the 15th meeting of the Committee of the Parties on 5 December 2014, available at: <http://rm.coe.int/1680631c90>

<sup>3</sup> Available at: <http://rm.coe.int/16806fd50d>

5. Following the adoption of the first report on Italy, as part of its mandate to monitor the implementation of the Convention, GRETA continued to follow developments related to trafficking in human beings in Italy. On 25 April 2016 GRETA sent an urgent request for information to the Italian authorities pursuant to Rule 7 of the Rules of Procedure for evaluating the implementation of the Convention by the Parties.<sup>4</sup> GRETA subsequently carried out an urgent procedure visit to Italy, from 21 to 23 September 2016, in order to assess the specific situation of forced returns of victims of trafficking in human beings from Italy and, more generally, any difficulties encountered by the Italian authorities in ensuring the implementation of the Convention in the context of increased migration movements. In the report published after the visit, on 30 January 2017, GRETA urged the Italian authorities to improve the identification of victims of trafficking among migrants and asylum seekers, by setting up clear and binding procedures and providing systematic training to immigration police officers and staff working in first aid and reception centres (CPSA or "hotspots"), accommodation centres (CDA), identification and expulsion centres (CIE) and centres for accommodation of asylum seekers (CARA). GRETA also urged the Italian authorities to mainstream prevention of trafficking in the training of all staff working with unaccompanied and separated children and to set up child-specific victim identification procedures which involve child specialists and take into account the special circumstances and needs of child victims of trafficking. Further, GRETA stressed that voluntary returns of victims of trafficking are to be preferred to ensure the rights, safety and dignity of the victim and encouraged Italy to use forced returns as a measure of last resort only. GRETA also stressed the need for further developing international partnerships with a view to combating and dismantling criminal networks involved in trafficking and prosecuting offenders.

6. On 2 May 2017, GRETA launched the second round of evaluation of the Convention in respect of Italy by sending the questionnaire for this round to the Italian authorities. The deadline for submitting the reply to the questionnaire was 2 October 2017. Italy submitted its reply on 30 October 2017.<sup>5</sup>

7. In preparation of the present report, GRETA used the reply to the questionnaire by the Italian authorities, the above-mentioned report submitted by them to the Committee of the Parties, and information received from civil society. An evaluation visit to Italy took place from 29 January to 2 February 2018 in order to hold meetings with relevant governmental and non-governmental actors, collect additional information and examine the practical implementation of adopted measures. The visit was carried out by a delegation composed of:

- Ms Siobhán Mullally, President of GRETA;
- Ms Rita Theodorou Superman, member of GRETA;
- Ms Petya Nestorova, Executive Secretary of the Convention;
- Mr Markus Lehner, Administrator in the Secretariat of the Convention.

8. During the visit, the GRETA delegation held consultations with officials from the Department for Equal Opportunities of the Italian Presidency of the Council of Ministers, the Ministry of the Interior, the Ministry of Foreign Affairs and International Co-operation, the Ministry of Justice, the Ministry of Labour and Social Policies, the Ministry of Health, the Ministry of Agricultural, Food and Forestry Policies, the National Anti-Mafia and Anti-Terrorist Directorate, the State Police, the Carabinieri Corps, the Financial Police (*Guardia di Finanza*), the National Association of Italian Municipalities, the National Commission for the Right to Asylum, the Territorial Commission for Recognition of International Protection in Rome, and the National Statistics Institute. The GRETA delegation also met Ms Filomena Albano, Italian Ombudsperson for Children and Adolescents.

<sup>4</sup> Rule 7 provides that "when GRETA receives reliable information indicating a situation where problems require immediate attention to prevent or limit the scale or number of serious violations of the Convention, it may make an urgent request for information to any Party or Parties to the Convention. Taking into account the information submitted by the party or parties concerned, as well as any other reliable information available to it, GRETA may designate rapporteurs to assess the specific situation and, if necessary, carry out a visit to the party or parties concerned".

<sup>5</sup> Available at: <http://rm.coe.int/rq2-ita/168076be42>

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9. Separate meetings were held with representatives of non-governmental organisations (NGOs), trade unions, lawyers and researchers. The GRETA delegation also met officials of the International Organization for Migration (IOM) and the United Nations High Commissioner for Refugees (UNHCR).
10. In addition to holding meetings in Rome, the GRETA delegation travelled to two Italian regions, Sicily and Tuscany, where it met representatives of public bodies and civil society involved in local anti-trafficking networks.
11. In the course of the visit, the GRETA delegation visited shelters for victims of trafficking and drop-in centres providing services to possible victims of trafficking, run by civil society organisations (Proxima and Penelope in Sicily, and Donne in Movimento and Arnera in Tuscany). Further, the delegation visited an emergency reception centre (CAS) for asylum-seeking women in Torre Angela, near Rome.
12. The list of the national authorities, NGOs and other organisations with which the delegation held consultations is set out in the Appendix to this report. GRETA is grateful for the information provided by them.
13. GRETA wishes to place on record the co-operation provided by the Italian authorities during the second evaluation visit by GRETA. GRETA is also grateful for the assistance provided by officials of the Department for Equal Opportunities of the Presidency of the Council of Ministers in the preparation of the programme of GRETA's visit and the collection of necessary information, in particular Mr Michele Palma, Director General of the Office for General and International Affairs and Interventions in the Social Field, and Ms Elena Falcomatà of the same Department.
14. The draft version of the present report was approved by GRETA at its 32nd meeting (9-13 July 2018) and was submitted to the Italian authorities for comments on 26 July 2018. The authorities' comments were received on 22 October 2018 and were taken into account by GRETA when adopting the final report at its 33rd meeting (3-7 December 2018). The report covers the situation up to 7 December 2018; developments since that date are not taken into account in the following analysis and conclusions. The conclusions summarise the progress made, the issues which require immediate action and the other areas where further action is needed (see pages 68-75).

## II. Main developments in the implementation of the Convention by Italy

### 1. Emerging trends in trafficking in human beings

15. Italy continues to be primarily a country of destination for trafficked persons, as well as a country of transit to other destinations in Europe. As was the case at the time of the first evaluation by GRETA, there is no data on the number of presumed victims and victims of THB identified every year due to the absence of a uniform identification system, but the Department of Equal Opportunities (DEO) gathers statistics on the number of victims of THB who benefit annually from the assistance, protection and social integration programmes funded by the DEO. According to these statistics, there were 1 172 assisted victims in 2016, the majority of them being female (954, or 81.4%); there were also 206 male and 12 transgender victims. Adults constituted 90.5% of the assisted victims (1 061) and children 9.5% (111). The main countries of origin of the assisted victims were Nigeria (696 persons, or 59.4% of the total), Romania (7%), Morocco (5.3%) and Albania (3.6%). The number of Italian victims was only three and according to the Italian authorities, internal trafficking is not registered as a phenomenon in Italy. As regards the forms of exploitation, the majority of the assisted victims were subjected to sexual exploitation (674 persons, or 57.5%), but there were also cases of labour exploitation (92), forced criminality (37), forced begging (15), forced marriage (1) as well as multiple exploitation (72). The remainder of the cases are designated as "other", which refers to persons intended for exploitation (220) or "smuggling" (61). In addition to the persons assisted through projects funded by the DEO, a number of presumed victims of trafficking who seek asylum are accommodated in facilities run by the System for the protection of asylum seekers and refugees (SPRAR).

16. As regards 2017, the total number of newly assisted victims of THB was 1 050 (of whom 85.6% were female); 121 (11.5%) of the victims were children. In 2018 (up until 16 October 2018), there were 569 newly assisted victims (of whom 92.6% were female); 42 (7.38%) of the victims were children. The main countries of origin of the victims in 2017-2018 were Nigeria, Romania, Morocco, Bangladesh, Pakistan, Albania and Bulgaria. The majority of the assisted victims were subjected to sexual exploitation (78% in 2017, 90% in 2018), followed by labour exploitation (13% in 2017, 7% in 2018), forced begging (1.9% in 2017, 1.5% in 2018) and forced criminality (0.2% in 2018, 2.7% in 2017).

17. Due to its geographical situation, Italy has been at the forefront of the arrival of a massive number of asylum seekers and migrants. Some 154 000 migrants and asylum seekers arrived in Italy by sea in 2015, via the so-called Central Mediterranean route, 181 463 in 2016, 119 369 in 2017, and 21 024 in the first nine months of 2018.<sup>6</sup> The refugee protection crisis creates new opportunities for traffickers and exploiters. The number of women who apply for international protection and are either vulnerable to THB or already in the process of being trafficked has significantly increased. The number of unaccompanied or separated children arriving in Italy (some 12 360 in 2015, 25 800 in 2016, 15 000 in 2017) and the shortage of places in reception and accommodation facilities for children create additional risks of trafficking and exploitation (see paragraphs 105 and 108). According to IOM estimates, more than 80% of the Nigerian women and girls arriving in Italy are likely to be victims of trafficking for sexual exploitation in Italy or in other countries of the European Union (EU).<sup>7</sup> GRETA notes that in its 2017 Concluding observations concerning Italy, the UN Committee on the Elimination of Discrimination against Women (CEDAW) expressed concern about the prevalence of trafficking in women and girls in Italy and their subsequent forced prostitution, especially in the context of migration flows.<sup>8</sup>

<sup>6</sup> <https://www.iom.int/news/mediterranean-migrant-arrivals-reached-171635-2017-deaths-reach-3116>;  
<https://www.iom.int/news/mediterranean-migrant-arrivals-reach-21981-2018-deaths-reach-606>

<sup>7</sup> IOM, Human Trafficking through the Central Mediterranean Route, Rome, 2017, p.9. Available at: [http://www.italy.iom.int/sites/default/files/news-documents/IOMReport\\_Trafficking.pdf](http://www.italy.iom.int/sites/default/files/news-documents/IOMReport_Trafficking.pdf)

<sup>8</sup> CEDAW, Concluding observations on the seventh periodic report of Italy, 24 July 2017, p.19, available at: [https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/ITA/CO/7&Lang=En](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/ITA/CO/7&Lang=En)



18. GRETA acknowledges the extreme difficulties which Italy has been experiencing due to the unprecedented arrival of migrants and refugees, and the significant efforts which have been made by the authorities, with the assistance of international organisations and civil society, to cope with the challenges posed by the refugee protection crisis. The relocation of asylum seekers from Italy to other EU countries has been slow,<sup>9</sup> exposing vulnerable adults and unaccompanied children to exploitation and trafficking as they seek the help of smugglers and try to raise money for their journey.

19. GRETA notes with serious concern that there is a significant gap between the above-mentioned figures of assisted victims and the real scale of the phenomenon of human trafficking in Italy, due to difficulties in the detection and identification of victims of trafficking, problems of data collection, and insufficient attention to trafficking for purposes other than sexual exploitation, as well as to internal trafficking. The authorities acknowledge that mixed migration flows makes it difficult to distinguish between migrants and those who are trafficked and/or in need of international protection.

## 2. Developments in the legal framework

20. The Italian national legal framework relevant to THB has evolved since GRETA's first evaluation.

21. As noted in GRETA's first report, Legislative Decree No. 24 of 4 March 2014, implementing Directive 2011/36/EU of the European Parliament and the Council on preventing and combating trafficking in human beings and protecting its victims, amended Articles 600 ("placing a person in a position of slavery") and 601 ("trafficking in human beings") of the Italian Criminal Code (CC). Further, it provided for the adoption of a national anti-trafficking action plan, added provisions concerning the compensation to victims of trafficking from the State Fund for anti-trafficking measures, and provided for the setting up of a single programme for assisting victims of trafficking. Although this legislation had already entered into force before the publication of GRETA's first report, several of its provisions were implemented subsequently and are relevant for this report.

22. Further, Law No. 199 of 29 October 2016 on "Provisions to counter the phenomena of undeclared employment, exploitative labour in agriculture and the realignment of wages in the agricultural sector" amended Article 603 bis of the CC ("illegal brokering and labour exploitation", known as "*caporalato*" in Italian),<sup>10</sup> and criminalised labour exploitation independent of the existence of a broker, making it punishable by between one and six years' imprisonment (or up to eight years' imprisonment if a worker is subjected to violence or threats) and a fine from 500 to 1 000 euros in relation to each worker concerned. It also introduced administrative responsibility of legal entities and compulsory forfeiture of money, goods and profits under this offence. Workers who are victims of offences under Law No. 199 of 29 October 2016 can apply for a payment from the State Fund for anti-trafficking measures (see paragraph 208).

23. Another relevant legal act is Law No. 47 of 7 April 2017 on "Provisions concerning the protection measures of third-country unaccompanied children" (known as the "Zampa Law"), in force since 19 May 2017.<sup>11</sup> Article 17 of this law, entitled "Child victims of trafficking", provides for the setting up of a specific programme for assistance of children who have been trafficked, envisaging assistance beyond the age of 18, and an annual fund of 154 080 euros to make payments to children who apply for damages. Further, the Law reduced the maximum period of detention of children in a reception centre from 60 to 30 days and specified that unaccompanied children are to be held in separate facilities from adults. The law also includes provisions concerning the appointment of voluntary guardians and on age assessment.

<sup>9</sup> According to IOM data, by 30 April 2018, a total of 12 689 persons had been relocated out of Italy to other European countries, mainly Germany, Sweden and the Netherlands. Available at: <http://migration.iom.int/europe/>

<sup>10</sup> Article 603 bis ("*intermediazione illecita e sfruttamento del lavoro*") was first introduced in the CC in 2011 with a view to combating the labour exploitation of migrants.

<sup>11</sup> Available at: [http://www.camera.it/leg17/465?tema=minori\\_stranieri\\_non\\_accompagnati](http://www.camera.it/leg17/465?tema=minori_stranieri_non_accompagnati).

24. Reference should also be made to the Decree of the President of the Council of Ministers of 16 May 2016 setting up a "Single programme for the emergence, assistance and social integration of victims of trafficking and exploitation" (i.e. victims of crimes under Articles 600 and 601 of CC). This single programme (see paragraph 160) replaces the previous dual assistance approach based on short-term and long-term projects, under respectively Article 13 of Law No. 228/2003 and Article 18 of the Consolidated Immigration Act.<sup>12</sup>

25. Further, Legislative Decree No. 212 of 15 December 2015 implementing Directive 2012/29/EU on the minimum standards on the rights, support and protection of victims of crime introduced Article 90-bis in the Criminal Procedure Code entitled "information to the victim" (see paragraph 209).

26. In addition, several secondary legislative instruments concerning international protection are of relevance to the protection of victims of trafficking. Legislative Decree No. 142/2015 (in force since 30 September 2015) transposed Directive 2013/33/EU on minimum standards for the reception of asylum applicants and Directive 2013/32/EU on common procedures for the recognition and revocation of the status of international protection. Legislative Decree No. 142/2015 added victims of human trafficking to the list of "vulnerable persons" whose applications for international protection must be examined as a priority by the Territorial Commissions. Pursuant to Legislative Decree No. 142/2015, the reception system of asylum seekers, which is co-ordinated by the Ministry of the Interior, was organised in two phases: (i) first reception phase, which takes place in specialised centres where asylum seekers remain for the time strictly necessary for the identification procedure: first aid and reception centres (CPSA), accommodation centres (CDA), centres for accommodation of asylum seekers (CARA) and emergency ("extraordinary") reception centres (CAS); and (ii) second reception phase, managed by SPRAR ("System for the protection of asylum seekers and refugees") with the direct participation of the local authorities, and aiming at the social insertion of the asylum seekers/refugees. To remedy the lack of spaces in reception centres and SPRAR, Article 11 of Legislative Decree 142/15 envisages that the Prefect can order the accommodation of migrants in temporary ("extraordinary") accommodation centres, CAS, for the time strictly necessary to find places in the two other types of centres.

27. In addition, Presidential Decree No. 21/2015 on "Regulation on the procedures for the recognition and revocation of international protection" contains provisions aimed to clarify the different stages of the asylum procedure, such as the composition and functioning of the National Commission for the Right to Asylum and the Territorial Commissions for Recognition of International Protection, and provides rules related to the functioning of centres for accommodation of asylum seekers (CARA) and the services within these centres.

28. In the period following the adoption of GRETA's draft report on Italy, Decree-law No. 113/2018 on international protection, immigration and public security (referred to as the "Salvini Decree") was passed by the Italian Government on 4 October 2018. Following its approval by the Senate and the Chamber of Deputies, on 28 November 2018, the Decree-law was converted into law. It amended certain provisions of Legislative Decree No. 286/98 (Consolidated Act on Immigration) and Legislative Decree No. 142/2015. The new law abolished the humanitarian protection status which was afforded pursuant to Article 5, paragraph 5, item 6, of Legislative Decree No. 286/98. This form of protection, additional to the recognition of refugee status and subsidiary protection, allowed Police Headquarters (*Questure*) to issue a residence permit for humanitarian reasons for foreign citizens seeking asylum and was reportedly afforded to some 25% of asylum seekers (20 000 persons in 2017). In the place of humanitarian protection, the law introduced a special residence permit for victims of domestic violence or serious work exploitation, persons in urgent need of medical care, persons coming from a country that is in a temporary situation of natural disaster, and persons who have performed acts of high civic value. Further, it introduced the possibility of detaining asylum seekers in hotspots for up to 30 days in order to ascertain their identity and citizenship. Other immigration measures include extending the detention period of irregular migrants in repatriation holding centres (CPRs) from 90 to 180 days to allow more time to complete the deportation procedure. Further, the law replaced the SPRAR system

<sup>12</sup> See paragraph 137 and following of GRETA's first report on Italy.

for protection of asylum seekers and refugees with a system of protection reserved solely for beneficiaries of international and subsidiary protection, foreign unaccompanied children and holders of residence permits for special reasons. International and civil society organisations have expressed concerns that the new law would push further underground asylum seekers, prolong administrative detention, benefit traffickers and other criminal groups, and further exacerbate social tensions. According to UNHCR, the new measures do not offer adequate guarantees to vulnerable persons, such as victims of abuse and torture. UNHCR has also expressed concerns about the situation in the hotspots (CPSA), which are often overcrowded and located in remote places, and has recommended that the SPRAR system be preserved.<sup>13</sup>

29. The above-mentioned legislative measures are discussed in greater detail in later parts of this report.

### **3. Developments in the institutional framework**

30. The institutional framework for action against THB in Italy has also evolved since GRETA's first report. On 2 August 2016, a Steering Committee (*Cabina di regia*) was set up under the National Action Plan, led by the Department of Equal Opportunities (DEO) of the Presidency of the Council of Ministers. The Committee serves as a national inter-institutional forum for planning, implementation and financing of measures to combat human trafficking under the National Action Plan. It is chaired by the Undersecretary of State in charge of gender equality and is composed of representatives of the Ministry of the Interior, Ministry of Justice, Ministry of Education, University and Research, Ministry of Foreign Affairs and International Co-operation, Ministry of Health, Ministry of Agricultural, Food and Forestry Policies, Ministry of Defence, Ministry of Economy and Finance, Ministry of Labour and Social Policies, the National Anti-Mafia Directorate, the Carabinieri Corps, the State Police, the Financial Police, and the Regional and Local Authorities. By the time of GRETA's evaluation visit, the Steering Committee had held three meetings (the last one in December 2017). GRETA was informed that NGOs and trade unions had been invited to attend the Steering Committee meeting in December 2017, in a consulting role, but they were not considered as members of the Steering Committee in their own right.

31. Within the Steering Committee, four working groups were established with a view to ensuring the implementation of different aspects of the National Action Plan, dealing respectively with prevention, protection, co-operation, and co-ordination between the protection system for asylum seekers and the protection system for trafficking victims. The working groups include representatives of civil society and relevant international organisations (IOM, UNHCR).

32. Following the general elections in March 2018 and the formation of the new Italian Government on 1 June 2018, there have been important staff changes in the DEO. The new officials in charge of co-ordinating anti-THB action convened the first meeting with relevant stakeholders in 2018 on 4 September. The next meeting of the Steering Committee was expected to be held by December 2018.

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<sup>13</sup> [https://www.unhcr.it/news/unhcr-richiama-lattenzione-sullimpatto-provvedimenti-sulla-protezione-internazionale-oggi-discussione-al-senato.html?fbclid=IwAR30\\_0oTCpapMEPMutXPO93Z48XmbZ90uocEhnHcMX9R-YJINY4xVZszavq](https://www.unhcr.it/news/unhcr-richiama-lattenzione-sullimpatto-provvedimenti-sulla-protezione-internazionale-oggi-discussione-al-senato.html?fbclid=IwAR30_0oTCpapMEPMutXPO93Z48XmbZ90uocEhnHcMX9R-YJINY4xVZszavq)

33. While welcoming the setting up of the Steering Committee and its working groups, GRETA remains concerned by the limited capacity of the DEO to lead and co-ordinate the fight against THB in Italy.<sup>14</sup> GRETA also notes that specialised NGOs and trade unions are not sufficiently involved in the work of the Steering Committee. **GRETA considers that the Italian authorities should strengthen the co-ordination of anti-trafficking action by setting up a dedicated national co-ordination structure which is appropriately staffed and has the mandate and authority to bring together the anti-trafficking work of relevant ministries and agencies, as well as by further involving NGOs, trade unions and other members of civil society in the development, implementation and evaluation of anti-trafficking policy, through the Steering Committee and its working groups.**

34. GRETA was informed that the DEO also acted as an "equivalent mechanism" in the sense of Article 19 of EU Directive 2011/36/EU.<sup>15</sup> GRETA would like to stress that Article 29 of the Convention makes a clear distinction between national co-ordination and National Rapporteur. In GRETA's view, the key features of National Rapporteurs' mechanisms within the meaning of Article 29, paragraph 4, of the Convention should be the ability to critically monitor the efforts and effectiveness of all state institutions, including national co-ordinators, and to that end maintain a constant exchange with civil society, the research community and other relevant stakeholders. A structural separation between the monitoring functions and executive functions makes possible an objective evaluation of the implementation of anti-trafficking legislation, policy and activities, the identification of lacunae and shortcomings, and the formulation of comprehensive legal and policy recommendations. Therefore, **GRETA considers that the Italian authorities should examine the possibility of establishing an independent National Rapporteur or designating as a National Rapporteur another independent mechanism with a view to ensuring an effective monitoring of the anti-trafficking activities of State institutions and making recommendations to persons and institutions concerned (see Article 29, paragraph 4, of the Convention and paragraph 298 of the Explanatory Report).**

#### 4. National Action Plan

35. The first National Action Plan against Trafficking in, and Serious Exploitation of, Human Beings was adopted by the Council of Ministers on 26 February 2016, pursuant to Article 9 of Legislative Decree No. 24/2014. With a view to enhancing the national response to human trafficking in the areas of the "4 Ps" (prevention, prosecution, protection and partnership), the National Action Plan envisages, *inter alia*, the following measures:

- Improving knowledge on THB, including through research (e.g. on groups at risk, victim recruitment online and through social networks, the role of organised crime and corruption in trafficking) and awareness raising;
- Prevention in countries of origin, including the development of co-operation initiatives;
- Co-operation with the private sector to raise awareness of the use of forced labour, encourage corporate social responsibility and promote the development of an incentive system;
- Improved interaction with the National Labour Inspectorate with a view to combating trafficking for the purpose of labour exploitation;
- Strengthening judicial co-operation and a multi-agency approach to tackling THB offences;
- Devising adequate mechanisms for the rapid identification of victims of human trafficking through the drafting of specific guidelines;

<sup>14</sup> In its first report on Italy (paragraph 56), GRETA noted that "the current human and financial resources of the DEO are insufficient to lead and co-ordinate the fight against THB, considering the number of different functions that fall under its responsibility and the volume of the tasks its officials have to carry out".

<sup>15</sup> "Member States shall take the necessary measures to establish national rapporteurs or equivalent mechanisms. The tasks of such mechanisms shall include the carrying out of assessments of trends in trafficking in human beings, the measuring of results of anti-trafficking actions, including the gathering of statistics in close cooperation with relevant civil society organisations active in this field, and reporting."

- Establishing a National Referral Mechanism;
- Setting up a single programme for emergence, assistance and social integration of victims of trafficking;
- Setting up a comprehensive database on human trafficking;
- Providing multi-agency training;
- Assisted voluntary return to countries of origin;
- Adopting specific guidelines on the fulfilment of the obligation to inform victims of their rights.

36. The National Action Plan states that according to an analysis by the Department for Equal Opportunities, in the period 2012-2016, a total of just under 50 million euros had been committed to actions to combat human trafficking and victim social protection, amounting to an annual average of roughly 12.5 million.<sup>16</sup> Within the framework of the National Action Plan, on 3 July 2017 the Italian Government issued a new call for proposals for victim assistance projects for a total amount of 23 million euros (the projects run over 15 months, starting from 1 December 2017). A further 200 000 euros were allocated in 2017 to starting work related to the development of a national database against human trafficking. GRETA welcomes the considerable increase in the budgetary funding allocated to anti-trafficking projects. Nevertheless, the funding is still not commensurate with the actual needs (see paragraph 171).

37. GRETA was informed that the first National Action Plan against Trafficking would expire at the end of 2018. The Italian authorities have indicated that they plan to assess the implementation of the first National Action Plan, without specifying whether this would be done by an independent body, and that they would take into account GRETA's report and recommendations when preparing the next Plan. GRETA stresses the importance of an external, independent evaluation of the implementation of the National Action Plan as a tool for assessing the impact of the activities and for planning future policies and measures to combat human trafficking. Such an independent monitoring is in the spirit of the human rights-based approach to anti-trafficking action underpinning the Convention. **GRETA considers that the Italian authorities should commission an independent evaluation of the implementation of the National Action Plan and use the results for preparing the second National Action Plan on action against THB, in consultation between all relevant stakeholders, including civil society.**

38. The National Action Plan stresses the "multi-level governance" approach to anti-trafficking action, which involves different levels of responsibility. In addition to the national level represented by the DEO, anti-trafficking projects are also developed and funded at the regional level (mostly by local departments for welfare and social policies and local departments of labour and training, which are responsible for managing the European Social Fund) and the local level (social services and affiliated local actors).

39. Reference should also be made to the fourth National Action Plan for the Care and the Development of Children and Adolescents (2016-2017), which was developed by the National Observatory on Children and Adolescents and adopted by a Presidential Decree on 31 August 2016. The National Action Plan to Prevent and Combat Sexual Exploitation of Children 2015-2017 has been fully taken into consideration in the framework of the fourth National Action Plan for the Care and the Development of Children and Adolescents.

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<sup>16</sup> Nearly 85% of this sum went to funding assistance projects under Article 18 of the Consolidated Law on Immigration and Article 13 of Law 228/2003; of this amount, the state funding came to 71% (an average of 7.5 million euros per year). The use of European funds was 5%.

40. Moreover, Italy has adopted a National Action Plan on Business and Human Rights (2016-2021), which focuses on six priorities, including tackling “*caporalato*” and other forms of exploitation, forced labour, child labour and slavery, with particular focus on migrants and victims of trafficking (see paragraph 134).

## 5. Training of relevant professionals

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

42. Article 5 of Decree 24/2014 provides for the setting up of compulsory training programmes for those dealing with potential THB victims. The National Action Plan built up on this provision by stressing the importance of training, as a key component of preventive action, for all front-line actors, both public and private, including those running anti-trafficking projects at landing sites, staff at reception centres, Territorial Commissions for granting international protection, law enforcement officials, prosecutors, health care professionals, labour inspectors, and other public services. Priority is to be given to the training of law enforcement officials and local police as they are generally the first point of contact with potential THB victims. Notwithstanding the emphasis put by the National Action Plan on the importance of training of relevant professionals, GRETA is concerned that it remains unclear whether the training is to be compulsory and there is no allocation of dedicated funding. Neither is it clear whether and how an assessment of the training provided would be conducted.

43. On 22-26 January 2018, Italy and the Organization for Security and Co-operation in Europe (OSCE) co-organised a simulation-based training exercise entitled “Combating Human Trafficking along Migration Routes” at the training facilities of the Carabinieri Centre of Excellence for the Stability Police Units in Vicenza. The training aimed at enhancing the ability to effectively investigate and prosecute human trafficking offences and to promptly identify victims of trafficking in human beings along migration routes by promoting a multi-agency and human rights-based approach. A total of 59 Italian participants took part in this training, including 12 criminal investigators, four judges, four lawyers, two immigration police officers, 20 social workers, four cultural mediators, as well as prosecutors, labour inspectors, asylum officials and NGO representatives.

44. The training curricula of law enforcement agencies (National Police, Carabinieri, *Guardia di Finanza*) include victim identification and the investigation of trafficking offences. In 2015 the Central Directorate of the National Police, in co-operation with the Special Operations Group (ROS) and the Labour Department Command of the Carabinieri Corps, produced a “Handbook on THB - Indicators for the Investigating Police”, which is used in the initial training of all investigators. Further, indicators for the identification of victims of THB for different forms of exploitation are set down in the Guidelines for prompt identification of THB victims adopted within the National Action Plan against THB<sup>17</sup> (see paragraph 144). According to information provided by the Italian authorities, criminal police refresher and specialisation courses started in January 2017, with a possible follow-up in 2018 for National Police officers working at the investigative offices of the *Questure* (Mobile Squads and Digos), at the regional and interregional laboratories of the forensic police, as well as for the criminal police units of the traffic and railway police departments.

<sup>17</sup>

<http://www.pariopportunita.gov.it/media/2874/allegato-2-linee-guida-rapida-identificazione.pdf>

45. Moreover, staff of the Anti-crime Central Directorate of the National Police participated in the activities of the European project "Euromed Police III" with, *inter alia*, a seminar on the fight against human trafficking (27-31 January 2014) held in Rome with the support of the CEPOL National Unit (including law enforcement officers of countries in the Southern Mediterranean). Further, in 2015, as part of the European Project "TEMVI", dealing with trafficking in children for forced criminal activities (see paragraph 64), four training meetings (three with a multi-agency character and one for the operators of social services) were organised at the University of Padua and a multi-agency Intervention Protocol was drawn up.

46. The Italian authorities have also referred to the on-going EU-funded project "BMM - Better Migration Management", which involves training on illegal immigration and human trafficking for police officers in countries in the Horn of Africa (Ethiopia, Djibouti, Eritrea, Kenya, Somalia, South Sudan, Sudan, Uganda) with the participation of the Anti-crime Central Directorate of the Italian National Police. One of the fields of action is to improve co-operation between investigators, prosecutors and judges with a view to effectively prosecuting and punishing human trafficking offences.

47. As an EU member, Italy participates in the training programmes and activities carried out by the European Agency for the Management of Operational Co-operation at the External Borders of the Member States of the European Union (Frontex) in the areas of border control, including trafficking in human beings.

48. *Guardia di Finanza* organises training for first-line staff dealing with emergencies related to irregular migration. In 2017, five training initiatives, both at central and peripheral level, were organised. In the training plan for 2018, there are also five training initiatives envisaged in the form of e-learning for first-line staff (a total of 1 600 persons).

49. In collaboration with the Ministry of the Interior, UNHCR has provided training on the identification of victims of THB among asylum seekers to members of the Territorial Commissions dealing with asylum applications, on the basis of the new guidelines for the identification of THB victims among asylum-seekers (see paragraph 150). In 2017, 11 training workshops were organised throughout the territory of Italy. In 2018, four training sessions for members of Territorial Commissions were organised (in Milan, Brescia, Perugia and Cagliari) and another four were scheduled by the end of 2018 (in Foggia, Reggio Calabria, Trapani and Trieste). Since the beginning of the project almost 230 members of Territorial Commissions, 70 interpreters and 285 anti-trafficking personnel have been trained. Further, the subject of human trafficking was one of the focuses of the training organised by the National Commission for 250 new members of Territorial Commissions. The National Commission for the Right to Asylum and UNHCR, together with the High Council for the Judiciary, organised in 2017 and 2018 joint training of Presidents of Territorial Commissions and specialised judges dealing with asylum applications. Another training on trafficking in human beings for judges of Juvenile Courts was held in Naples in May 2018.

50. Since 2017, the Department for Civil Liberties and Immigration of the Ministry of the Interior, with the support of EASO, has delivered training on the reception and protection of unaccompanied children to staff of first-line reception centres, Prefectures, and municipal police, health and social services. Eight trainings were delivered in 2017 and another six in 2018, including trainers from IOM and UNHCR. Several sessions were dedicated to children with special reception needs, including victims of trafficking. Further, EASO presented its tool for identification of persons with special needs.

51. Further, in the framework of the project ADITUS which runs until the end of 2019, IOM implements training for staff working at facilities for asylum seekers and staff of the Prefectures involved in the management of the phenomenon of trafficking and exploitation. Training has already taken place in the regions of Piedmont, Veneto, Treviso, Liguria, Emilia Romagna, Tuscany, Lazio, Molise, Campania, Apulia, Calabria, Sicily and Sardinia (see also paragraph 148).

52. Reference should also be made to the project "Beside You - Beside the Victims: Knowledge Sharing, Co-operation and Crime Investigation across Europe against Trafficking in Human Beings", co-funded by the Council of Europe and implemented by the Institute for Socio-Economic Research of Piedmont (IRES) and the Prosecutor's Office of Turin, which took place in 2017 with a view to increasing the capacity of law enforcement officers and social workers to identify possible victims of human trafficking among asylum seekers, to assist and protect them, and to facilitate the investigation of human trafficking cases. The training and capacity building covered 105 law enforcement officers and 225 social workers. Further, prosecutors and investigators from Austria, Belgium, France and Finland participated in a technical meeting together with relevant Italian professionals aimed at improving international co-operation in the investigation of human trafficking cases.

53. The High Council for the Judiciary plays an active role by introducing the subject of THB in the annual meetings for training and professional updating of judges and prosecutors. The High School of Judiciary periodically includes training related to THB in the initial and continuous training of prosecutors and judges.

54. As regards labour inspectors, GRETA was informed that each territorial office of the National Labour Inspectorate organises two to three meetings per year for the purpose of updating their knowledge. Several labour inspectors from Veneto Region took part in the training referred to in paragraph 43.

55. According to information provided by the Ministry of Foreign Affairs, all consular officials receive pre-posting training to enable them, *inter alia*, to recognise potential THB in the framework of the visa application procedures.

56. Reference should also be made to the on-going training provided to voluntary guardians recruited pursuant to Law No. 47/2017 (see paragraph 186). According to the Italian Ombudsperson for Children and Adolescents, by February 2018, four training courses had been organised in five regions, with 170 guardians trained. The training has continued throughout 2018.

57. At regional level, multi-agency training on THB has taken place in the regions of Umbria, Emilia-Romagna, Friuli Venezia-Giulia and Liguria, involving, *inter alia*, law enforcement officers, labour inspectors, health-care staff, municipal staff and NGOs. For example, in 2017 the Umbria School of Public Administration organised a nine-day training course for participants in the Anti-trafficking Co-ordination Table. In Emilia-Romagna Region, thanks to the participation in the 2014-2015 TRUTH project, an e-learning training course on THB was developed and can be used free-of-charge by any relevant Italian public administration. Liguria Region, with funds from the DEO, has carried out a multi-agency training course on trafficking and serious exploitation of human beings.

**58. While welcoming the above-mentioned training initiatives and the multi-agency approach to training, GRETA considers that the Italian authorities should ensure that training programmes are organised in a systematic and harmonised way across Italy for all relevant officials, in particular law enforcement officials, border police staff, front-line professionals working at points of disembarkation and first reception of migrants and asylum seekers, prosecutors, judges, asylum officials, social workers, labour inspectors, lawyers, child specialists and health care professionals. The relevance, effectiveness and reach of these programmes should be evaluated at regular intervals.**



## 6. Data collection and research

59. There have been no changes to the data collection concerning THB in Italy since GRETA's first evaluation report. As noted in paragraph 15, the DEO collects data on the number of assisted victims of THB, through the database SIRIT (*Sistema Informatizzato di Raccolta Informazioni sulla Tratta* or Computerised system for the collection of information on trafficking in human beings). The data are supplied by civil society actors and public bodies running victim assistance projects with funding disbursed by the DEO, extraordinary reception centres (CAS), SPRAR system centres, the State Police (Railway Police and investigative units), the municipal police, committees of citizens, Prefectures, Territorial Commissions, IOM and counselling desks. The figures are disaggregated by gender, age, country of origin and form of exploitation. The setting up of a single programme for the emergence, assistance and social integration of victims has facilitated the collection of data and reduced the previous double counting. However, in the absence of a National Referral Mechanism, there is still an absence of data on presumed and identified victims of trafficking, regardless of whether they participated in assistance projects.

60. In addition, there are several bodies which collect data on other aspects of THB. The National Anti-Mafia Directorate (DNA) runs a database concerning the number of investigations and criminal proceedings into THB and related offences (Articles 600, 601 and 602 of the CC) and the number of suspects, on the basis of information provided by the 26 District Anti-Mafia Directorates (DDA). However, the data does not include information on the type of exploitation involved, nor does it provide information on the outcome of criminal trials. Separate data on police investigations are gathered by the Ministry of the Interior through the Police National Electronic Database (CED), which are disaggregated by sex, age and nationality, but not by type of exploitation. Further, the Ministry of Justice through its Statistical Department collects data on convictions. GRETA notes that there are certain discrepancies in the different sets of statistics.

61. As mentioned in paragraph 35, one of the activities envisaged under the National Action Plan is to set up a comprehensive database on human trafficking. The DEO and the National Statistical Institute (ISTAT) signed an agreement in March 2017 concerning data collection on violence against women, which is intended to cover THB. Most of the funding is provided by the DEO. As regards the actual collection of data on THB, it appears that it would be limited to pulling together police, prosecutor and judicial statistics in relation to Articles 600, 601 and 602 of the CC, which is deficient in some respects: for example, data on victims is not always disaggregated by form of exploitation and gender. According to representatives of ISTAT met by GRETA, only the Criminal Code can serve as the basis for identifying victims of THB, and therefore the plan is to use available statistics, probably adding those related to Article 603 of the CC, as well as concerning migration law violations. The data collection by ISTAT is not intended to include the previously mentioned database SIRIT, nor is it planned to collect information directly from service providers and NGOs.

62. GRETA notes that the data collection in Italy should be broadened to include victims of THB identified by NGOs and other relevant bodies regardless of whether criminal proceedings have been instituted. There are NGOs to which presumed victims of THB may turn for assistance and if these persons do not wish to have contacts with the police or participate in assistance programmes, they are not entered in the statistics. GRETA stresses that the absence of a comprehensive data collection system makes it difficult to make an assessment of the situation and the extent to which measures to combat THB correspond to the actual needs.

63. **For the purpose of preparing, monitoring and evaluating anti-trafficking policies, GRETA urges the Italian authorities to develop and maintain a comprehensive and coherent statistical system on trafficking in human beings by compiling reliable statistical data on measures to protect and promote the rights of victims as well as on the investigation, prosecution and adjudication of human trafficking cases. Statistics regarding victims should be collected from all main actors and allow disaggregation concerning sex, age, type of exploitation, country of origin and/or destination. 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.**

64. There is a considerable amount of research on the phenomenon of THB in Italy, carried out by civil society organisations, trade unions, academic researchers and international organisations. By way of example, in 2015 the Anti-crime Central Directorate of the National Police participated in the European Project "TEMVI - Trafficked and Exploited Minors between Vulnerability and Illegality. Forced criminal activities as a new form of exploitation in human trafficking: knowledge and human rights based practices through pilot research and multi-agency training and prototype-procedures", which resulted in the publication of a report.<sup>18</sup> The project involved France, Italy, Hungary and Romania. A multi-agency Intervention Protocol was drawn up and tested at local level under the co-ordination of Venice municipality and the University of Padua. The Intervention Protocol has proven to be a very useful multi-agency tool, facilitating co-ordination in the system of intervention in the field of THB, mainly for trafficked children, juvenile protection services and social services, including those engaged in the integration of, and combating discrimination against, Roma, Sinti and Caminanti.

65. Further, a research report concerning the phenomenon of trafficking for the purpose of forced begging was published as part of the project "STOP FOR-BEG" (Against emerging forms of trafficking in Italy: exploited immigrants in the international phenomenon of forced begging) carried out by the Region of Veneto and the University of Padua in 2013-2015, with the financial support of the European Commission.<sup>19</sup>

66. In 2016, the *Osservatorio Placido Rizzotto* of the trade union FLAI-CGIL (Federation of Agroindustry Workers) published the third edition of the report entitled "*Agromafie e caporalato*" concerning the use of migrant labour in the agricultural sector (see paragraph 79).<sup>20</sup>

67. In 2017 IOM published a report on human trafficking along the Central Mediterranean route, based on the work of IOM teams at points of disembarkation in Sicily, Calabria and Puglia.<sup>21</sup>

68. In July 2016, the NGO Save the Children published a report on child victims of trafficking (see paragraph 177).<sup>22</sup> This NGO also produces periodic reports on migrant children arriving in Italy by sea.<sup>23</sup>

<sup>18</sup> [http://www.osservatoriointerventitratta.it/wp-content/uploads/2016/07/Report\\_en\\_web.pdf](http://www.osservatoriointerventitratta.it/wp-content/uploads/2016/07/Report_en_web.pdf)

<sup>19</sup> [http://www.regione.veneto.it/c/document\\_library/get\\_file?uuid=36c4fd99-cced-4751-b2f2-189bec0a69ae&groupId=61739](http://www.regione.veneto.it/c/document_library/get_file?uuid=36c4fd99-cced-4751-b2f2-189bec0a69ae&groupId=61739)

<sup>20</sup> For a summary of the report in Italian, see <https://www.flai.it/wp-content/uploads/SchedaSintesi-IIIRapp-1.pdf>

<sup>21</sup> [http://www.osservatoriointerventitratta.it/wp-content/uploads/2017/07/RAPPORTO\\_OIM\\_Vittime\\_di\\_tratta\\_0.pdf](http://www.osservatoriointerventitratta.it/wp-content/uploads/2017/07/RAPPORTO_OIM_Vittime_di_tratta_0.pdf)

<sup>22</sup> Save the children, *Piccoli schiavi invisibili*, July 2016. Available at:

[http://images.savethechildren.it/IT/f/img\\_pubblicazioni/img308\\_b.pdf](http://images.savethechildren.it/IT/f/img_pubblicazioni/img308_b.pdf)

<sup>23</sup> Save the Children, *Children Come First -- Intervento in frontiera*, January - March 2018.

69. In June 2015, the Association for Legal Studies on Immigration (ASGI) published a report concerning the legal guardianship of child victims of trafficking and serious exploitation.<sup>24</sup>

70. GRETA notes that research on THB and the use of its results in the development of more effective anti-trafficking policies is a key component of the National Action Plan, to be funded by competent Ministries as well as local authorities. This includes, for instance, research on groups at high risk of THB and the phenomenon of re-trafficking, recruitment of THB victims through the Internet and social networks, gender-specific aspects and other factors of vulnerability, the impact of equal recruitment policies as a tool for THB prevention, and the role of organised crime in THB.

**71. GRETA considers that the Italian authorities should further conduct and support research on THB-related issues as an important source of information on the impact of current policies as well as a basis for future measures. Areas where further research is needed, in order to shed more light on the extent of the problem of THB in Italy, include internal trafficking and trafficking for the purpose of labour exploitation in sectors other than agriculture (e.g. domestic and care work).**

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<sup>24</sup> ASGI, *La tutela delle vittime della tratta e del grave sfruttamento: il punto della situazione oggi in Italia*, 2015. Available at: [https://www.asgi.it/notizie/look-out-report-sfruttamento-lavorativo-tratta-italia/?utm\\_source=newsletter&utm\\_campaign=351d744e8e-newsletter\\_14\\_aprile\\_2015\\_&utm\\_medium=email&utm\\_term=0\\_73ce74d02e-351d744e8e-43505337](https://www.asgi.it/notizie/look-out-report-sfruttamento-lavorativo-tratta-italia/?utm_source=newsletter&utm_campaign=351d744e8e-newsletter_14_aprile_2015_&utm_medium=email&utm_term=0_73ce74d02e-351d744e8e-43505337)

### III. Article-by-article findings

#### 1. Prevention of trafficking in human beings

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

72. In its first report, GRETA noted the absence of national information campaigns on THB in Italy and urged the Italian authorities to develop country-wide awareness-raising activities on all forms of THB, with the involvement of civil society, on the basis of research and impact assessment.

73. On the occasion of the EU Anti-Trafficking Day, on 18 October 2016, the DEO launched an awareness-raising campaign (TV advert) aimed at increasing knowledge of the national toll-free anti-trafficking number (800 290 290). The campaign was developed in collaboration with NGOs within the framework of the Steering Committee and was broadcast on the main national public network.

74. A new awareness-raising campaign entitled "*No Tratta*" was released by the DEO on the occasion of the EU Anti-Trafficking Day on 18 October 2017, including a short video advertising the National Toll-free Anti-Trafficking number.<sup>25</sup> The DEO also organised a public event which was opened by the Undersecretary of State in charge of gender equality and provided an opportunity to present the new campaign. On 18 October 2017, balloons with the toll-free number were released in some 60 locations in Italy. The DEO has set up a website entitled "*Osservatorio interventi tratta*" which includes the materials of the campaign as well as information on different forms of trafficking, relevant reports and other documents.<sup>26</sup>

75. While the number of prevention measures at national level remains limited, many prevention activities have been carried out at local level, targeting different groups (sexually exploited trafficking victims, clients, local population). The tools used have included the distribution of information materials, posters, radio advertisements and public meetings. The impact of these awareness-raising initiatives has not been measured, but it is acknowledged that their impact is, by definition, limited: although they contribute to increasing the level of individual awareness, they do not necessarily change individual conduct.

76. GRETA notes that as in Italy human trafficking is a phenomenon linked to immigration, more consultation with and participation of migrant communities in awareness-raising is essential. It is also important to raise awareness of THB amongst airport and commercial carriers' staff.

77. Being a significant country of destination for trafficked persons, Italy has funded awareness-raising activities in countries of origin (see paragraphs 275-276). By way of example, the campaign "Aware Migrants" which was organised in collaboration with IOM in the Horn of Africa and West Africa, aimed, *inter alia*, to inform potential migrants of the risks of trafficking.<sup>27</sup>

**78. GRETA considers that the Italian authorities should further develop awareness-raising activities at national level aimed at preventing human trafficking for different forms of exploitation. The Italian authorities should involve migrant communities in designing and implementing awareness-raising actions, and plan future information and awareness-raising campaigns on the basis of previous research and impact assessment.**

<sup>25</sup> <http://www.osservatoriointerventitratta.it/>

<sup>26</sup> <http://www.osservatoriointerventitratta.it/portfolio-column-3/campagna-no-tratta-2>

<sup>27</sup> <https://www.awaremigrants.org/>

## b. Measures to prevent THB for the purpose of labour exploitation (Article 5)

79. Trafficking for the purpose of labour exploitation has been on the rise in Italy. A substantial share of asylum seekers and refugees accommodated in temporary reception centres (CAS) are believed to constitute a cheap labour force and often work in substandard, if not abusive, conditions.<sup>28</sup> In addition, EU citizens from Eastern Europe<sup>29</sup> and Italian workers, especially women,<sup>30</sup> are affected. The most affected sectors are agriculture and grazing (with the predominant use of workers from Poland, Bulgaria, Romania, African countries and an increase in workers from Pakistan, India<sup>31</sup> and Bangladesh), the construction sector (with the predominant use of Eastern European labour), the textile and manufacturing sector (with the predominant employment of Chinese workers), and domestic and home care work (with predominant use of labour from Eastern Europe, countries of the former USSR, Asia and South America). Other areas of labour exploitation include car washes, fruit stores and ethnic minority restaurants. According to a report by *Osservatorio Placido Rizzotto* of FLAI-CGIL (Federation of Agroindustry Workers), on the basis of surveys in 80 agricultural areas, it was estimated that in 2016 some 430 000 Italian and foreign workers were victims of "caporalat" (gangmasters), 100 000 of whom were reportedly in conditions of serious exploitation and vulnerability.<sup>32</sup> A recent report commissioned by the European Parliament's Policy Department for Citizens' Rights and Constitutional Affairs at the request of Committee on Women's Rights and Gender Equality, focusing on case studies in Italy and Spain, highlighted the risks of sexual and labour exploitation faced by migrant women working in the agricultural sector, and stressed that the ghettoisation and inadequate housing conditions of migrant workers in rural areas may also foster commercial sexual exploitation of migrant women.<sup>33</sup>

80. With a view to combating the exploitation of migrant workers, Article 603 bis ("illegal brokering and labour exploitation", known as "caporalato") was first introduced in the CC in 2011. After several workers lost their lives on farms in the summer of 2015 and under pressure from trade unions, this provision of the CC was amended in 2016 through Law No. 199 of 29 October 2016, entitled "Provisions to counter the phenomena of undeclared employment, exploitative labour in agriculture and the realignment of wages in the agricultural sector". Besides punitive measures, Law No. 199 of 29 October 2016 also sets up a framework of inter-institutional co-ordination, particularly between the Ministries of Labour and Agriculture, aimed at designing measures of support concerning living conditions of agricultural workers and innovative recruitment policies. In addition, it strengthens support to the Network of Quality Agrarian Labour established in 2015, following adoption of the 2014 Competitiveness Law (referred to as "Campolibero Law") to promote agricultural businesses that respect labour rights and ethical working practices. GRETA welcomes these legislative developments.

<sup>28</sup> By way of example, civil society representatives stated that new migrants are prepared to work for 3 euros per hour, undermining the wage level previously negotiated by other migrant workers.

<sup>29</sup> <http://www.lastampa.it/2015/08/25/italia/cronache/i-migranti-della-vendemmia-tra-speranze-coop-e-caporali-OG1EgWf9ZUUpOjBp3JcSGI/pagina.html>; <http://espresso.repubblica.it/inchieste/2014/09/15/news/violentate-nel-silenzio-dei-campi-a-ragusa-il-nuovo-orrore-delle-schiave-rumene-1.180119>

<sup>30</sup> [http://inchieste.repubblica.it/it/repubblica/rep-it/2015/05/25/news/caporalato\\_femminile-114750446/](http://inchieste.repubblica.it/it/repubblica/rep-it/2015/05/25/news/caporalato_femminile-114750446/)

<sup>31</sup> <http://www.sikhisewasociety.org/home/tre-mesi-con-i-braccianti-sikh-nellinferno-del-caporalato>

<sup>32</sup> Osservatorio Placido Rizzotto, *Agromafie e caporalato, terzo rapporto*, 2016. For a summary of the report in Italian, see <https://www.flai.it/wp-content/uploads/SchedaSintesi-IIIRapp-1.pdf>

<sup>33</sup> Study for the FEMM Committee by Letizia Palumbo and Alessandra Sciubra, *The vulnerability of women migrant workers in agriculture and the EU: the need for a Human Rights and Gender based approach*, March 2018, available at: [http://www.europarl.europa.eu/RegData/etudes/STUD/2018/604966/IPOL\\_STU\(2018\)604966\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2018/604966/IPOL_STU(2018)604966_EN.pdf)

81. Reference should also be made to Legislative Decree No. 109/2012 (referred to as "Rosarno Law") which introduced some aggravating factors to the crime of employing irregular migrant workers, including the case of "particularly exploitative working conditions", as well as the additional financial sanction of payment of the cost of return of the worker to their country of origin. A new paragraph 12-quater was introduced to Article 22 of the Consolidated Immigration Act, which provides for the possibility of granting a residence permit to foreign persons having been subjected to aggravated forms of labour exploitation foreseen in Article 603 bis, paragraph 3, of the CC (i.e. at least three persons are concerned, or at least one of the workers concerned is less than 16 years old, or the person is exposed to serious dangers related to the characteristics of work or the working conditions).

82. On 27 May 2016 the Ministry of Labour and Social Policies, the Ministry of the Interior and the Ministry of Agricultural, Food and Forestry Policies adopted a Protocol against illegal recruitment and labour exploitation of agricultural workers (*Protocollo sperimentale contro il caporalato e lo sfruttamento lavorativo in agricoltura*). Actions carried out under the Protocol are funded by ESF (*Pon Legalità*) and the EU's Asylum, Migration and Integration Fund (AMIF). They include organising free transport of agricultural workers to work, providing first aid, creating social and health care centres, implementing pilot projects for the temporary use of state-owned properties for the reception of seasonal workers, establishing information points for the supply of housing services, distributing water and food to seasonal workers, and promoting Italian language courses and job training.

83. The Italian authorities have also referred to the project "Orientation and inclusion", which is currently being implemented by the Prefecture of Foggia (with funding amounting to 378 506 euros) and is aimed at combating the illegal hiring of farm labourers for extremely low wages and other forms of labour exploitation in agriculture. Another project, aimed at improving and strengthening the reception and integration services in rural areas with a high migrant worker population, will be implemented in co-operation between four Italian regions (Campania, Basilicata, Calabria and Sicily) and the Extraordinary Commissioners of the Government nominated for the areas of Manfredonia, San Ferdinando and Castelvoturno. The National Labour Inspectorate, the Prefectures of Foggia, Lecce, Potenza-Matera, Reggio Calabria, Caserta, Ragusa, Salerno and Taranto will also be involved.

84. The National Labour Inspectorate is responsible for ensuring the correct implementation of all labour and social security regulations, which includes prevention and combating of undocumented work. Labour inspectors have free access to the premises, buildings and rooms of the inspected entities, can take statements from workers, may request all relevant documentation and seek information from all public offices, labour consultants, employers and social security institutions. Labour inspectors, as judicial officers in matters of their own competence, are obliged to send timely reports to the competent judicial authority if they establish offences under Articles 600, 601 and 603 bis of the CC. If they establish the employment of non-EU workers without residence permits, they must denounce the employer pursuant to Articles 22, 12 and 12 bis of Legislative Decree 286/1998 (Consolidated Law on Immigration) and impose a financial sanction. The Italian authorities have stressed that the activities of labour inspectors are aimed at ensuring the protection of workers' rights and therefore the non-observance of the procedure for the legal establishment of an employment relationship does not undermine the rights of the worker without a residence permit to remuneration, payment of social and insurance contributions, working hours, health and safety. However, GRETA was informed that due to limited resources, labour inspections are organised on an ad-hoc basis. The effectiveness of labour inspections is weakened by the fact that inspectors are not allowed to enter private properties that are not registered as work places. Hidden, non-registered factories with exploitative practices are often situated on such private properties. Moreover, inspections are often known in advance or the working premises are so dispersed, in particular in agriculture, that the inspections are ineffective.

85. The National Labour Inspectorate has clarified that, pursuant to Constitutional Court Decision No. 10/1971, the inviolability of the domicile provided for in Article 14 of the Italian Constitution is derogated from by specific rules aimed at ensuring the regular conduct of labour inspections to protect, among others, constitutionally guaranteed economic and tax-related purposes. Access to such sites is not expressly forbidden insofar as there is a "well-founded suspicion that serves to make or hide violations of the law". The National Labour Inspectorate has also pointed out that the planning of labour inspections is confidential and checks are based on unannounced inspections.

86. In 2016-2017, the National Labour Inspectorate paid particular attention to inspections in the agricultural sector, focusing on specific regions, such as Puglia (Foggia, the plain of the Tavoliere delle Puglie, Taranto, Bari and the municipalities of Rutigliano and Noicattaro), Campania (Salerno, the Plain of Sele and the Agro Nocerino-Sarnese) and Lazio (especially the areas of Agro Pontino).

87. In addition to the National Labour Inspectorate, the Carabinieri Command for the Protection of Labour, which is functionally placed under the Ministry of Labour and Social Policy, is tasked with the fight against illegal employment, severe labour conditions and exploitation. There are some 450 Carabinieri officers who have obtained the qualification of labour inspector. They carry out autonomous operations or act in support of other Carabinieri units, police forces or labour inspectorates, in particular if the latter operations could involve risks for labour inspectors. Carabinieri labour inspectors have the power to enter at any time of the day or night any workplace without prior notice or judicial warrant. They also have the power to interrogate persons alone, examine documents and seize evidence.

88. In addition, *Guardia di Finanza* has the mandate to prevent and combat irregular labour, tax and revenue evasion, social security fraud, and the production and trade in counterfeit trademarked goods. The Corps' Action Plan aims to achieve this mandate through multiple levels of intervention, including tax audits, routine economic activity controls and financial investigations. During inspections, *Guardia di Finanza* officers frequently come across irregular migrants in exploitative conditions, especially seasonal agricultural work, which may amount to human trafficking offences. On 27 December 2017, *Guardia di Finanza* signed a Memorandum of Understanding with the National Labour Inspectorate aimed at improving context and risk analysis, promoting exchange of intelligence and data, and facilitating co-ordination between operational units.<sup>34</sup>

89. Furthermore, the National Labour Inspectorate has developed close co-operation with the State Forestry Corps (now merged with the Carabinieri Unit for Forest Conservation, Environmental and Agricultural Protection). A Memorandum of Understanding, dated 12 July 2016, signed by the National Labour Inspectorate, the Ministry of Defence and the Ministry of Agricultural, Food and Forestry Policies, provides, *inter alia*, for measures "to optimise the use of the resources involved (...) in inspection supervision in the agricultural sector through the planning of joint actions aimed at combating the phenomenon of *caporalato* and the exchange of mutual information useful for the adoption of initiatives to protect the territory, with reference to those at greater risk of criminal infiltration."

90. As part of the actions taken to implement the effectiveness of the inspections in the agricultural sector, the former Directorate General for Inspections of the Ministry of Labour and Social Policy, (currently National Labour Inspectorate) signed a Memorandum of Understanding with the Automobile Club of Italy (ACI) in September 2015, on the basis of which inspectors are enabled to consult the ACI registers for the verification of the ownership of the means of transport used by "*caporalati*" (gangmasters) in order to implement effective controls and sanctions.

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<sup>34</sup> The memorandum also envisages actions to tackle irregular labour and labour exploitation such as, for example, illegal intermediation and illegal employment of children and non-EU workers.

91. According to information provided by the Italian authorities, in the course of 2016, during inspections carried out in the agricultural sector, 8 042 farms were inspected, 5 512 irregular workers were detected, among whom 3 997 workers were undeclared and 217 workers were non-EU citizens without a residence permit, with an irregularity rate of more than 51%. In addition, 349 measures were taken to suspend entrepreneurial activity and 12 persons were referred to the judicial authorities, including nine for violations of Article 603 bis of the CC and three for violations of Article 600 of the CC. Further, in 2016, during inspections in other economic sectors (manufacturing industry in particular), a total of 1 357 irregular non-EU workers were found. According to the 2017 annual report of the National Labour Inspectorate, in 2017, in the course of the inspections of 160 374 companies, a total of 252 659 irregular workers were found, of whom 48 073 were undeclared. As regards in particular the agricultural sector, 7 265 inspections were carried out and 5 222 irregular workers were identified, of whom 3 549 were undeclared workers and, among them, 203 were non-EU citizens without a residence permit. In the first half of 2018, the National Labour Inspectorate carried out 87 773 inspections, during which it detected 77 222 irregularly employed workers, of whom 20 398 were undeclared workers. A total of 2 899 inspections were performed in the agricultural sector and 1 748 irregular workers were found, of whom 1 232 undeclared workers. GRETA is concerned by the significant number of undeclared workers who may be vulnerable to exploitation, including THB.

92. GRETA was informed of several projects run by trade unions and NGOs related to prevention of THB for the purpose of labour exploitation, in particular drop-in centres for migrant workers where they can receive information on their rights and legal advice. However, in general, there is still a shortage of projects focusing on THB for the purpose of labour exploitation: reportedly only 10 of the 21 anti-trafficking projects currently funded by the DEO deal with this issue, which means that in half of the country's regions THB for the purpose of labour exploitation is not addressed.

93. GRETA was informed that the Romanian community working in the agricultural sector of Sicily, and in particular the number of women, has grown over the last years. The workers live inside the greenhouses or in non-registered, half-derelict dwellings next to the green houses. They are isolated from the local community and there are reports of long working hours, low pay (considerably lower than the minimum wage and lower than that received by other migrant communities) and sexual abuse/exploitation of some of the women. Migrant workers cannot sign up for the National Health Insurance and have access only to emergency health care. Because of the isolated location of the farms, migrant children cannot go to school unless there is transport organised by NGOs. The trade union CGL and specialised NGOs have been visiting farms and greenhouses in Sicily since 2011. The NGO Proxima runs a mobile service providing migrant workers' families with clothes, food and other first necessity items, and gradually building relationships of confidence with them. Trade union and NGO representatives distribute stickers in different languages advertising the anti-trafficking hotline number and communicate information about suspected cases of abuse to the police and labour inspectors. Some workers contact trade unions when they are not paid their salaries. Contacts have been established with the Romanian Government with a view to starting a partnership to improve the conditions of Romanian workers. Multi-agency inspections of farms by the police, labour inspectors, sanitary authorities (ASP) and other inspectorates (dealing with social security, safety at work) have been organised. However, the low number of labour inspectors (e.g. only three for some 6 000 farms in the area of Ragusa in Sicily) makes inspections inefficient. GRETA was informed that while no victims of THB have been formally identified, the number of investigations opened under Article 603 bis of the CC has increased since the entry into force of Law No. 199/2016. Following allegations of abuse in the greenhouses, a working group was set up by the Prefect of Ragusa which started preparing a protocol for quality and work ethics certification of farms; however, this protocol was never finalised.



94. Law No. 141 of 18 August 2015 lays out provisions on social agriculture, which must allow for the launch of integration processes for migrant workers. The Ministry of Agriculture, Food and Forestry Policies runs several projects supported by the European Integration Fund which provide migrant workers with training. Another project, entitled "*A la luce del sole*" ("In the Sunlight"), aims to detect illegal businesses and assist them to become legalised. Moreover, the Ministry of Agriculture, Food and Forestry Policies, together with the National Research Council, organises a series of training seminars in Cagliari on issues related to international protection (entitled "Good practices of the reception system").

95. Further, the Ministry of Labour and Social Policies implements projects promoting social and labour integration in favour of the migrant population. The project "Inside" was launched in November 2015 to promote social and labour integration of beneficiaries of international protection accommodated in the SPRAR asylum reception system. The project led to the realisation of 653 individual integration paths, which include the attendance of an internship in the private sector.

96. Italy is one of the European countries with the largest number of domestic and care workers. The domestic and care services sector is a typical example of a marginal labour market sector where low pay, poor working conditions, little opportunity for career development, high vacancy and turnover rates prevail. According to research, the development of the private domestic and care market in Italy has been mostly uncontrolled and without a coherent institutional design.<sup>35</sup> The absence of a national minimum wage and protection from unfair dismissal increases risks of exploitation. The rate of irregularity in the domestic and care sector in Italy, measured as the percentage of irregular workers of the total number of workers, reportedly decreased from 81% in 2001 following the regularisation of migrant workers and the introduction of fiscal advantages and a voucher scheme, to 56 % in 2013.<sup>36</sup>

97. Italy ratified on 11 October 2016 ILO Convention No. 189 concerning decent work for domestic workers, but has not yet signed the Protocol to the ILO Convention on Forced Labour (No. 29).

98. The National Action Plan notes the need to pay attention to how the absence of lawful channels of migration is one of the causes for the rise in the numbers of victims of THB and asks for action in support of lawful migration, including through agreements with countries of origin. Italy has limited channels of legal entry into the country and quotas for work permits through the so-called "Flows Decree" are quite low. Domestic work is excluded from the quota system. The quotas are periodically reviewed in order to combat illegal stay. For example, Bangladesh has been excluded from the quota reportedly because of significant cases of exploitation in relation to Bangladeshi workers. GRETA stresses that enabling legal migration may reduce vulnerability to trafficking and that all preventive measures taken by States should comply with the requirement of non-discrimination (Article 3).

99. GRETA refers to the UN Human Rights Committee Concluding observations on the sixth periodic report of Italy (May 2017), which calls on the Italian authorities, *inter alia*, to strengthen labour inspections in those sectors where most migrants are working, including agriculture, to release labour inspectors from the responsibility for enforcing immigration law, to establish effective complaint procedures allowing migrant workers to lodge complaints against their employers without fear of reprisals, and to review Legislative Decree No. 109/2012 to that end.<sup>37</sup> GRETA also refers to the Concluding Observations of the UN Committee on the Elimination of Racial Discrimination, which express concern that employers continue to exploit migrants physically and financially, without fear of sanctions, and that migrants lack access to effective legal protection against abuse and exploitation.<sup>38</sup>

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<sup>35</sup> Sara PICCHI, The elderly care and domestic services sector during the recent economic crisis. The case of Italy, Spain and France, *Investigaciones Feministas*, Vol. 7, num. 1 (2016), pp. 169-190.

<sup>36</sup> Ibid., pp. 183-184.

<sup>37</sup> CCPR/C/ITA/CO/6, paragraph 29, available at:

[https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fITA%2fCO%2f6&Lang=en](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fITA%2fCO%2f6&Lang=en)

<sup>38</sup> CERD/C/ITA/CO/19-20, paragraph 23, available at:

[https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2fITA%2fCO%2f19-20&Lang=en](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2fITA%2fCO%2f19-20&Lang=en)

100. GRETA stresses Italy's positive obligations under Article 4 of the European Convention of Human Rights to put in place adequate measures regulating businesses and other economic activity to ensure that they do not use trafficked or forced labour.<sup>39</sup> In this context, GRETA refers to the European Court of Human Rights judgment in the case of *Chowdury and Others v. Greece* in which the Court found a violation of Article 4, paragraph 2, of the European Convention on Human Rights due to the failure of the Greek authorities to fulfil their positive obligations to prevent human trafficking, to protect victims, to effectively investigate the offences committed, and to punish those responsible for human trafficking offences.<sup>40</sup>

**101. GRETA urges the Italian authorities to intensify their efforts to prevent THB for the purpose of labour exploitation, in particular by:**

- **training labour inspectors throughout the country, as well as other inspecting agencies, law enforcement officers, prosecutors and judges, on combating THB for the purpose of labour exploitation and the rights of victims;**
- **expanding the capacity of labour inspectors so that they can be actively engaged in the prevention of THB, including in private households and in small businesses in the hotel, catering and restaurant sectors;**
- **monitoring the frequency and effectiveness of labour inspections and ensuring that sufficient human and financial resources are made available to labour inspectors to fulfil their mandate, including in remote locations at risk of THB in the agricultural sector;**
- **separating immigration enforcement functions from labour inspectorate roles and ensuring that labour inspectors prioritise the detection of persons working in irregular situations who are vulnerable to THB;**
- **reviewing the regulatory systems concerning migrants working as home care workers and ensuring that inspections can take place in private households with a view to preventing abuse of domestic workers and detecting cases of human trafficking;**
- **strengthening the monitoring of recruitment and temporary work agencies and reviewing the legislative framework for any gaps that may limit protection or preventive measures;**
- **supporting ethical trading initiatives, and effective enforcement of due diligence obligations to monitor supply chains, particularly in the fruit and vegetable sectors;**
- **raising awareness amongst the general public as well as, in a targeted manner, amongst migrant workers, about the risks of THB for the purpose of labour exploitation.**
- **establishing effective mechanisms to allow irregularly present migrant workers to lodge complaints in respect of labour standards against employers and obtain effective remedies without the risk of the sharing of their personal data or other information with immigration authorities for the purposes of immigration control and enforcement.**

**102. Further, GRETA invites the Italian authorities to consider measures to expand legal routes to migration as an effective measure to reduce vulnerability to trafficking.**

<sup>39</sup> European Court of Human Rights, *Rantsev v. Cyprus and Russia*, application No. 25965/04, 7 January 2010, paragraph

284.

<sup>40</sup> European Court of Human Rights, *Chowdury and Others v. Greece*, application No. 21884/15, 30 March 2017.

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

103. Pursuant to the National Action Plan, the Ministry of Public Education should ensure that sensitisation programmes on THB are put in place in schools. The Italian authorities have provided no information on whether such programmes have been introduced.

104. The Department for Civil Liberties and Immigration of the Ministry of the Interior is responsible for managing the reception and accommodation of unaccompanied and separated children, in agreement with the local authorities. The Directorate General on Immigration and Integration Policies of the Ministry of Labour and Social Policies is responsible for ensuring that the best interests of unaccompanied and separated children are duly taken into account, developing family tracing of unaccompanied children, and finding durable solutions in the best interests of the child.

105. The number of unaccompanied and separated children arriving in Italy across the Mediterranean Sea increased in 2016 (25 846,<sup>41</sup> compared to 12 360 in 2015), but since May 2017 there has been a noticeable reduction in the number of new arrivals (3 254 until the end of September 2018). The actual number of unaccompanied children is apparently greater as there are additionally unaccompanied children arriving in Italy by land, air or across the Adriatic (e.g. from Albania, Kosovo\* or Pakistan) and children who have arrived in previous years should also be included. According to data of the Ministry of Labour and Social Policy, as at 31 December 2017, 18 303 unaccompanied children from third countries were present in Italy (82% of them aged 16-17; some 93% male). At the end of August 2018, 12 457 unaccompanied children from third countries were present in Italy (70.5% of them aged 16-17; some 93% were male). As for the distribution of unaccompanied children in Italy, Sicily accounted for almost 42% of them. Thus in Sicily, the number of newly arrived unaccompanied children in 2016 was 8 658, of whom 3 359 disappeared, 2 300 were transferred to other places and the remaining 3 000 were being looked after by structures in Catania. The Ombudsman for Children and Adolescents has stressed the need for distributing unaccompanied children evenly throughout the country.<sup>42</sup>

106. The legal basis for taking care of unaccompanied foreign children is provided in Article 19, paragraphs 1 to 3, of Legislative Decree No. 142/2015. The reception system for unaccompanied children consists of first- and second-line reception centres (see paragraph 26). Migrants identified as unaccompanied children are hosted in first reception shelters for no longer than 30 days. These include mainly shelters co-funded by the EU's Asylum, Migration and Integration Fund (AMIF), which are run by civil society organisations selected following a call for tender by the Ministry of the Interior, and emergency shelters (CAS) managed by NGOs on the basis of calls for tender issued by the Prefectures in case of massive arrivals of migrants. Second-line reception is provided mainly through the SPRAR system which, as noted in paragraph 28, has changed under the new legislation.

107. As noted in paragraph 23, Law No. 47/2017 strengthened the protection of unaccompanied children and provided for a number of rights of such children, including to health care, education, legal assistance and to be heard at all stages of the procedure. A maximum of 10 days is set for identification operations and a new procedure for identifying children is introduced, involving an interview with qualified personnel, under the direction of the relevant local services. The reduction of the maximum period of detention of children in a first reception centre from 60 to 30 days is an important development. Article 3 of the law prohibits the *refoulement* of unaccompanied children at the border, while Article 10 provides for the issuing of a residence permit. Furthermore, the law provides for the possibility for a Juvenile Court to decide on the hand-over to social services of unaccompanied children who have reached the age of 18 in order to allow for completion of their integration project (Article 13). GRETA welcomes the adoption of Law No. 47 of 7 April 2017.

<sup>41</sup> According to UNHCR, in 2016, there were 3 932 newly arrived unaccompanied children from Eritrea, 3 257 from Gambia, 3 040 from Nigeria, 2 467 from Egypt, 2 406 from Guinea, 1 729 from Ivory Coast, 1 584 from Somalia, 1 390 from Mali, 1 179 from Senegal, 1 053 from Bangladesh and 3 909 from other countries.

<sup>42</sup> Italian Authority (Ombudsman) for Children and Adolescents, Report to Parliament 2016, June 2017.

108. GRETA was informed that the stay of unaccompanied children at first-line reception centres tended to be prolonged due to the lack of places in second-line reception facilities. According to the Italian authorities, in 2018 the average length of stay in AMIF first reception shelters went down by 45% compared to 2017. The Italian authorities have indicated that the SPRAR network of accommodation facilities has gradually been expanded, including with AMIF funding. According to updated information provided by the Italian authorities, at the end of September 2018, there were 27 projects covering 81 first-line reception centres for unaccompanied children, with a total capacity of 1 350 places and 415 children being accommodated. In 2018, 294 unaccompanied children were accommodated in 34 CAS, with an overall capacity of 507 places. In second-line reception, there were 144 projects with a capacity of 3 500 places and 2 589 unaccompanied children being hosted. The rest of the unaccompanied children were located in reception shelters managed by the municipalities. According to the authorities, the reduction in the number of new arrivals, including unaccompanied children (see paragraph 105) has resulted in a greater availability of places both in first- and second-line reception. However, GRETA is concerned that the new law on international protection, immigration and public security might have a negative impact on the reception of unaccompanied children.

109. GRETA was informed that a number of unaccompanied children claimed to be adults and were accommodated at first-line reception centres for adults, remaining in the asylum system for adults until an age verification procedure is put in place. The authorities have affirmed that in case of serious doubts about the age of a possible child, pending the results of the age assessment, the person concerned is accommodated in a reception shelter for children.

110. According to data from the Ministry of Labour and Social Affairs (Directorate General for Immigration and Integration Policy), 6 561 children were reported to the prefectures as having left reception centres in 2016.<sup>43</sup> The number of unaccompanied children who had left reception centres as at 30 June 2018 was 5 828. According to reports published every six months by the Special Commissioner for disappeared persons, 18 721 foreign children went missing in 2016 and 2017 and were never found.<sup>44</sup>

111. GRETA refers to a survey carried out by Refugee Rights Europe in Ventimiglia, on the French-Italian border, between 21 and 24 August 2017, which found that a considerable proportion of the children surveyed had reportedly experienced police violence and push-backs at the French border. The majority of the respondents slept rough by the river in Ventimiglia. 48% of the surveyed children reported health problems, but only 16.7% had been able to access medical care. Concerns have also been raised about the lack of safe accommodation for unaccompanied and separated migrant and asylum-seeking children in the Ventimiglia area, and the mixing of unaccompanied children with adults.

112. The procedure for family reunification of unaccompanied children with relatives in other EU countries is prolonged (e.g. 11 months) and some children prefer not to wait, leaving the reception centres. According to NGO reports, in order to raise money for their travel and send money back home to repay the debt incurred to the journey, children accept to work for little pay and are exploited in car washing, begging, vending and other activities, subjected to sexual abuse as well as trafficking for the purpose of sexual exploitation.<sup>45</sup> Save the Children has documented the trafficking and sexual exploitation of unaccompanied children in Turin, Ventimiglia and Rome.<sup>46</sup>

<sup>43</sup> <http://www.lavoro.gov.it/temi-e-priorita/immigrazione/focus-on/minori-stranieri/Documents/Report-MSNA-31122016.pdf>

<sup>44</sup> <http://www.interno.gov.it/it/sala-stampa/dati-e-statistiche/relazioni-periodiche-commissario>

<sup>45</sup> Save the Children, *Young Invisible Enslaved*, July 2018, pp.43-55.

<sup>46</sup> Ibidem.

113. The Ministry of the Interior, together with the National Council of the Psychologists' Associations, the National Foundation Social Workers and CIES Linguistic Mediators, started in 2017 a one-year pilot project entitled "PUERI - Pilot Action for Unaccompanied Children: Early Recovery Interventions" in the framework of the Urgent Measure of the 2014-2020 AMIF Fund. The project is being implemented in four "hotspots" (Trapani, Pozzallo, Lampedusa and Taranto) and provides that a multidisciplinary expert team composed of social workers, psychologists and cultural mediators carries out interviews with children, gathering in this way information related to their families, place of origin, journey and personal history and entering the gathered data into a "social file" which is due to follow the children during the different stages of their reception in Italy. As of 30 November 2017, the project involved 849 unaccompanied foreign children and a total of 1 258 interviews had been carried out.

114. In addition, GRETA was informed that IOM Italy runs a project with EU funding in Sicily and Calabria focused on unaccompanied children, which involves the provision of training to staff in reception facilities for children on the identification of vulnerabilities.

115. Further, the project "Percorsi" was launched in October 2016 to promote social and labour integration of unaccompanied children and young migrants through vocational training and work placements. The project led to the realisation of about 1 000 individual integration paths, which included the attendance of an internship in the private sector. The project was extended to finance 850 additional internships. As at 30 June 2018, a total of 1 797 internships have been provided, of which 1 603 have already been completed.

116. Pending the appointment of a legal guardian, the responsibility to act as a temporary guardian in relation to unaccompanied children's application for international protection and residence permits lies with the manager of the reception centre. Article 11 of Law No. 47/2017 provides for the appointment of voluntary guardians by juvenile courts, in addition to the legal guardians appointed by courts (see paragraph 186). The Ombudsman for Children and Adolescents has competence over their selection and training, as well as monitoring the operation of the voluntary guardians system. By April 2018, some 4 000 persons across Italy had applied to become voluntary guardians. The NGO Save the Children has produced a guide for voluntary guardians and runs a telephone helpline "Minori Migranti" which provides information for foreign children and any citizen who is interested in the matter.

117. GRETA refers to the 2017 Concluding Observations of the UN CEDAW Committee expressing concern at the low level of school attendance and the high dropout rates among Roma, Sinti and Caminanti girls and the absence of a gender impact assessment for the implementation of the national strategy for the inclusion of Roma, Sinti and Caminanti communities, covering the period 2012-2020. The CEDAW Committee has also highlighted concerns relating to the *de facto* statelessness of Roma, Sinti and Caminanti children, particularly of single parents.<sup>47</sup>

118. GRETA acknowledges the steps taken to improve the protection of unaccompanied children, through the adoption of Law No. 47/2017 and the setting up of more reception centres for such children. GRETA recalls the Council of Europe Action Plan on Protecting Refugee and Migrant Children in Europe and notes that States Parties have a positive obligation to identify potential trafficking victims, particularly children, and to ensure that a safe environment is afforded to all children in order to make them less vulnerable to trafficking.

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<sup>47</sup> UN Committee on the Elimination of Discrimination against Women, Concluding observations on the seventh periodic report on Italy, 24 July 2017, available at: <https://www.ohchr.org/en/countries/enacaregion/pages/itindex.aspx>

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

- **strengthen their efforts to prevent trafficking in children for different types of exploitation by raising public awareness about the risks and different manifestations of child trafficking (including early, child and forced marriages, exploitation of begging and forced criminality);**
- **sensitise and train teachers, educational staff and child welfare professionals across the country about THB and its different forms, and ensuring that sensitisation programmes on the matter of THB are put in place in schools;**
- **mainstream the prevention of trafficking in the training of all staff working with unaccompanied and separated children, ensuring the best interests of the child;**
- **prevent unaccompanied or separated children from going missing and ensure that they can benefit from protection of their rights and effective care arrangements, including safe and specialised accommodation, access to education and health care, so that they are not exposed to risks of trafficking;**
- **take action to address situations of violence of unaccompanied and separated children at the Italian/French border, including through international cooperation and positive measures to prevent trafficking, identification of possible child victims of trafficking at the borders, effective access to assistance and protection and timely appointment of guardians.**

120. **Furthermore, GRETA considers that the Italian authorities should make further efforts to:**

- **combat statelessness among Roma, Sinti and Camminanti children, particularly children of single parents, and ensure access to quality education for children of Roma, Sinti and Camminanti communities;**
  - **integrate the prevention of THB in training on online safety.**
- d. **Measures to prevent trafficking for the purpose of organ removal (Article 5)**

121. GRETA notes that while trafficking in human beings 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>48</sup> are distinct crimes, they share similar root causes, such as shortage of organs to meet demand for transplants 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>49</sup> Among the necessary preventive measures, GRETA underlines the importance of a robust and transparent domestic system for the removal and transplant 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.

<sup>48</sup> Opened for signature in Santiago de Compostela on 25 March 2015; entry into force 1 March 2018.

<sup>49</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 Finding", OSCE Occasional Paper No. 6 (2013).



122. Besides the criminalisation of THB for the purpose of organ removal under Article 601 of the CC, a new Article 601 bis was added to the CC by Law No. 236 of 11 December 2016 entitled "trafficking of organs removed from living persons". Furthermore, Law 236/2016, setting down harsh penalties for those engaging in organs trafficking, entered into force in January 2017. Italy signed the Council of Europe Convention against Trafficking in Human Organs on 25 March 2015. **GRETA encourages Italy to ratify the Council of Europe Convention against Trafficking in Human Organs as this could contribute to preventing trafficking for the purpose of organ removal.**

123. Law No. 91 of 1 April 1999 on "Dispositions on organs and tissues retrieval" regulates organ donation and transplantation from patients whose death has been diagnosed. According to Article 4 of this law, every adult person can freely declare their will to donate organs and tissues after death. A lack of declaration of will is considered as consent to donation. Further, the Decree of the Minister of Health of 8 March 2000 provides the rules for stating the will of donation, the Decree of the Minister of Health of 11 April 2008 provides procedures for brain death diagnosis, and there are national guidelines with criteria for assessing donor suitability of 9 August 2012.<sup>50</sup>

124. Law No. 458 of 26 June 1976 regulates organ transplantations from living persons. The procedure for allowing donations from living persons is two-stage. First, a judge has to assess the potential donor and recipient independently of one another and establish the absence of a financial relation. Second, a committee at regional level has to hear separately the potential donor and recipient in order to ensure their informed consent and knowledge of the risks. An authorisation for a living donor is issued by the Ministry of Health on the basis of the assessment. This procedure applies to both Italian and foreign citizens.<sup>51</sup>

125. The National Transplant Centre (CNT) was set up under Law No. 91 of 1 April 1999. It is located at the National Institute of Health, under the Ministry of Health. The CNT is entrusted with the national co-ordination of all activities related to organ donations, the definition of guidelines and operational protocols, procurement and transplantation of organs, tissues and cells, including monitoring of donations, transplants and waiting lists, allocation of organs for urgent cases, and co-ordination of relations with foreign institutions in the field.

126. GRETA was informed that some 300 kidney donations and 10 liver donations from living donors take place per year in Italy. There have been no cases of foreign donors coming to Italy. In 2017, there were some 3 900 transplants in Italy; some 50 Italian citizens received organ transplants abroad in EU countries. The main living liver donation centres in Italy are Milano Niguarda, Palermo ISMETT and Bambin Gesù in Rome.

127. Ministry of Health officials referred to a case dating back to 2015, in which a migrant went to an emergency medical centre in Milan and the doctor found a scar indicative of nephrectomy. The person declared that his kidney had been removed in Africa. An inquiry into this case was opened, but the person concerned disappeared. The Ministry of Health and the National Centre of Bioethics have instructed regional health centres to pay particular attention to such situations and to record information about persons coming from other countries as potential donors or recipients travelling to other countries. Pursuant to the Code of Criminal Procedure, medical doctors are obliged to record suspicious lesions suggesting a criminal act and to report them to the police.

<sup>50</sup> Available at: <http://www.trapianti.salute.gov.it/trapianti/archivioNormativaCnt.jsp>

<sup>51</sup> Other relevant provisions are contained in Law No. 458/1967, Law No. 91/1999, Ministerial Decree of 19 November 2015 implementing EU Directive 2010/53/EU. see <http://www.trapianti.salute.gov.it/trapianti/archivioNormativaCnt.jsp> for the relevant legislative framework,

128. Furthermore, NGOs reported that in 2016 there was a case on traffickers allegedly selling organs of migrants who could not pay for passage to Italy. According to media reports, 38 suspected migrant smugglers, who are also alleged to have been involved in organ trafficking, were arrested across Italy in July 2016. According to a collaborator with the judicial authorities in this case, migrants who were not able to pay the fee for their journey were sold (for roughly 15 000 euros) to Egyptians who harvested their organs.<sup>52</sup> No persons appear to have been formally accused in this case and the Italian authorities have not provided updated information on it.

**129. GRETA considers that the Italian authorities should ensure that health professionals involved in the transplantation of organs and other relevant professionals are made aware of the indicators of trafficking for the purpose of organ removal and are given instructions how to deal with such cases.**

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

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

131. The Nation Action Plan against THB puts great emphasis on the need to adopt measures to discourage demand, such as preventive educational programmes, sensitisation to discourage sex tourism, information campaigns and involvement of the media to spread awareness of THB. Local municipalities and the police have supported campaigns led by NGOs aimed at reducing the demand for commercial sex through prostitution. By way of example, the Italian authorities have referred to the campaign "Stop Sexual Tourism" launched by the NGOs Fiori d'Acciaio and Mete Onlus in 2018, which involved placing billboards at 57 airports to raise awareness among travellers.

132. Prostitution per se is not criminalised in Italy, but the act of procuring is a crime under Article 3 of Act 75/195. The law criminalises pimping, brothels and similar commercial enterprises. The sharp increase in the number of women and girls arriving in Italy from Africa, in particular Nigeria (from 1 317 in 2011, to 11 009 in 2016), is associated with an increase in the supply of victims of sexual exploitation. IOM estimates that about 80% of Nigerian women and girls arriving by sea in 2016 were likely to be victims of trafficking for sexual exploitation in Italy and other EU countries, although it is not excluded that migrants from other nationalities are also affected.<sup>53</sup> According to GRETA's interlocutors, as well as an exponential increase in the number of women and girls selling sex on the streets, there has also been an increase in indoor prostitution. There are also reports about an increase in child prostitution, affecting both girls and boys (mainly from Nigeria, Romania, Albania and the Republic of Moldova). According to a mapping of street prostitution carried out jointly by the National Anti-Trafficking Platform, the national anti-trafficking helpline and the Co-ordinating National Community of Hospitality network (CNCA) on 3 May 2017, covering 50 of the 93 Italian provinces and 11 of the 14 metropolitan cities, there were 3 280 persons in street prostitution (82% women, 17% transsexuals and 1% men); of them, 40% were Eastern European and 38% African (primarily Nigerian); 5.1% appeared to be children.<sup>54</sup>

<sup>52</sup> See <https://www.thelocal.it/20160704/italy-police-bust-migrant-smuggling-network-38-arrests>

<sup>53</sup> IOM, Human Trafficking along the Central Mediterranean Route, 2017, p.13., available at: [https://italy.iom.int/sites/default/files/documents/IOM\\_report\\_trafficking\\_2017.pdf](https://italy.iom.int/sites/default/files/documents/IOM_report_trafficking_2017.pdf)

<sup>54</sup> CNCA, Piattaforma nazionale anti tratta, *Prima mappatura nazionale della prostituzione di strada*, May 2017, available at: <http://www.cnca.it/comunicazioni/comunicati-stampa/2883-prima-mappatura-nazionale-della-prostituzione-di-strada>



133. There is a scarcity of research in Italy on the profiles and numbers of clients of sexual services, but some NGOs refer to an increase in male sexual demand and its "normalisation".<sup>55</sup> In 2014, it was estimated that some 2.5 million men were actively seeking paid sex in Italy, with an alarming increase in men seeking sex with children, in particular Sub-Saharan girls.<sup>56</sup> There are no plans to address the demand side through legislative measures, such as criminalising the use of sexual services from victims of trafficking with the knowledge that the person is a victim of THB (see paragraph 231). GRETA refers to the Concluding Observations of the UN CEDAW Committee, which recommends that Italy strengthen the assistance provided to women and girls who wish to leave prostitution, including by providing them with alternative income-generating opportunities, and intensify efforts to reduce demand for prostitution and raise clients' awareness of the desperate situation of those who provide these services.<sup>57</sup>

134. As regards measures to address demand resulting in labour exploitation, reference is made to the initiatives mentioned in paragraphs 74-75. The National Action Plan on Business and Human Rights (2016-2021), referred to in paragraph 40, includes amongst its priorities tackling "*caporalato*" and other forms of exploitation, forced labour, child labour and slavery, with particular focus on migrants and victims of trafficking. GRETA stresses the need for encouraging partnerships with the business community and professional associations to strengthen and leverage corporate social responsibility and to ensure ethical supply chains and certification.

135. The Italian authorities have indicated that the duties of labour inspectors include preventive action and therefore in 2017-2018 the territorial offices of the National Labour Inspectorate carried out several informative meetings for stakeholders of the labour market (trade unions, employers' organisations, professional associations) concerning the issues of illegal recruitment (the so-called *caporalato*) and labour exploitation.

136. Reference should also be made to the initiative "Be Aware" launched by the Milan Centre for Food Law and Policy, together with the Italian consumers co-operative Coop. The campaign is aimed at promoting a European legislative framework in favour of good practices against labour exploitation in agriculture.

137. **GRETA considers that the Italian authorities should adopt and strengthen legislative, administrative, educational, social, cultural or other measures to discourage demand for the services of trafficked persons, for all forms of exploitation, in partnership with civil society, trade unions and the media, including by:**

- **implementing educational programmes at schools which stress the importance of gender equality and respect for the dignity and integrity of every human being and the consequences of gender-based discrimination;**
- **highlighting the risks of trafficking and other forms of sexual and gender-based violence linked to prostitution, and strengthening awareness-raising campaigns of such risks, targeted at men and boys in particular;**
- **raising awareness of the important role of the media and advertising in tackling demand which leads to human trafficking;**
- **setting up programmes supporting persons who want to leave prostitution;**
- **supporting ethical trading initiatives particularly in the agricultural sector;**
- **working closely with trade unions, civil society and the private sector to raise awareness of trafficking for the purpose of labour exploitation, prevent**

<sup>55</sup> European Network of Migrant Women, Europe-Africa Crisis We Don't Want to Name: Organised Sexual Exploitation of Women and Girls.

<sup>56</sup> Roberta Lunghini, *Who's the prostitute's typical client?* Available at: <http://www.west-info.eu/who-is-the-prostitutes-typical-client/>

<sup>57</sup> CEDAW, Concluding observations on the seventh periodic report of Italy, 24 July 2017, available at: [https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/ITA/CO/7&Lang=En](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/ITA/CO/7&Lang=En)

**trafficking in supply chains and strengthen corporate social responsibility, drawing on the Guiding Principles on Business and Human Rights<sup>58</sup> and Recommendation CM/Rec(2016)3 on human rights and business.<sup>59</sup>**

**f. Border measures (Article 7)**

138. In its first report, GRETA considered that the Italian authorities should make further efforts to detect and prevent THB through border control measures, and in particular introduce a checklist to identify potential THB-related risks during the visa application system, provide training to relevant staff on the detection of possible victims of THB, and provide written information to foreign nationals planning to travel to Italy, in a language that they can understand, in order to alert them about the risks of THB, inform them of their rights and where to turn for advice and assistance.

139. According to the Italian authorities, border guards have to take the necessary measures to ensure that a person is directed towards competent structures providing assistance as soon as they have reasonable grounds to believe that the person might have been subjected to an offence related to trafficking in human beings. In its urgent procedure report on Italy, published in January 2017, GRETA described the procedures for identifying possible victims of THB among newly arrived migrants at disembarkation locations in Southern Italy and centres of first aid and reception (CPSA or so-called "hotspots") where Italian immigration police officers work together with Frontex staff, international organisations and NGOs.<sup>60</sup> NGOs report, however, that many THB victims still go unidentified among irregular migrants, asylum-seekers and unaccompanied children due to inconsistent use of the identification criteria. The Guidelines for identification of THB victims (see paragraph 144) adopted in the context of the National Action Plan stress the importance of putting in place training for border guards to combat THB.

140. Italy started contributing in November 2014 to the Frontex joint aero-naval operation "Triton". The activities were directed by the Ministry of the Interior's Department for Immigration and Police and co-ordinated by *Guardia di Finanza*, which, besides taking part in operations with its air-naval facilities, ensured the running of the international co-ordination centre near Rome and of four local co-ordination centres in Messina, Lampedusa, Taranto and Cagliari. A new Joint Frontex Operation entitled "Themis" was launched on 1 February 2018 to assist Italy in border control activities, replacing "Triton". "Themis" continues to have a search and rescue component. Its operational area spans the Central Mediterranean Sea from waters covering migratory flows from Algeria, Tunisia, Libya, Egypt, Turkey and Albania. In this context, the *Guardia di Finanza* referred to a project through which support and training was provided to the Libyan coast guard. GRETA refers to the concerns raised in the report of the UN Special Rapporteur on trafficking in persons, especially women and children, at the failure to ensure that new staff and resources are dedicated to the protection of fundamental rights and the promotion of a victim-centred approach to human trafficking in Operation "Themis".<sup>61</sup> In this context, GRETA also refers to Resolution 2229 (2018) of the Parliamentary Assembly of the Council of Europe on the international obligations of Council of Europe member States to protect life at sea.<sup>62</sup>

<sup>58</sup> [http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR\\_EN.pdf](http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf)

<sup>59</sup> [Recommendation CM/Rec\(2016\)3](http://www.coe.int/t/e/treaties/CM/Rec(2016)3) of the Committee of Ministers to member States on human rights and business, adopted by the Committee of Ministers on 2 March 2016 at the 1249th meeting of the Ministers' Deputies.

<sup>60</sup> See GRETA urgent procedure report on Italy, paragraphs 31 and following.

<sup>61</sup> UN Human Rights Council, Thirty-eighth session, Report of the Special Rapporteur on trafficking in persons, especially women and children, A/HRC/38/45, 14 May 2018, available at: <http://www.gla.gov.uk/media/3588/un-report-on-trafficking-and-human-rights.pdf>

<sup>62</sup> PACE, Resolution 2229 (2018), available at: <http://assembly.coe.int/nw/xml/XRef/Xref-DocDetails-en.asp?FileID=24964&lang=en>

141. **GRETA considers that the Italian authorities should continue their efforts to detect and prevent THB through border control measures. This should include:**

- **steps to build the capacity of all competent authorities to detect indicators of THB among persons arriving in Italy and ensure prompt and effective access to assistance and protection;**
- **taking further measures through Operation "Themis" to ensure early identification and referral to assistance of victims of trafficking among migrants and refugees at sea;**
- **providing information to foreign nationals seeking asylum or arriving irregularly, in a language that they can understand, about the risks of THB, their rights and where to receive advice and legal assistance. In this context, GRETA refers to the United Nations Office of the High Commissioner for Human Rights (OHCHR) 2014 Recommended Principles and Guidelines on Human Rights at International Borders;<sup>63</sup>**
- **proactive measures at all borders (including at sea) to comply with the positive obligations under the Convention to prevent trafficking in human beings and protect the human rights of victims of trafficking.**

## **2. Measures to protect and promote the rights of victims, guaranteeing gender equality**

### **a. Identification of victims of THB (Article 10)**

142. In the first evaluation report on Italy, GRETA urged the Italian authorities to improve the identification of victims of trafficking by introducing a National Referral Mechanism, providing frontline staff with operational indicators and guidance, and training them on the use of these tools. Further, GRETA called on the Italian authorities to ensure that law enforcement officials, social workers, labour inspectors, border officers and other relevant actors adopt a more proactive approach and increase their outreach work to identify possible victims of trafficking, in particular as regards forms of exploitation other than sexual, including labour exploitation and forced begging. Moreover, in its urgent procedure report focusing on the identification of victims of trafficking among migrants and asylum seekers, GRETA urged the Italian authorities to set up clear, binding procedures for the identification of victims of THB by immigration police officers and staff working in first reception centres, removal centres and centres for asylum seekers. GRETA also stressed the need to ensure that there are appropriate facilities for holding confidential interviews with a view to identifying victims of trafficking at hotspots and other places where asylum seekers and migrants are held.

143. The National Action Plan against Trafficking and Severe Exploitation (2016-2018) contains in an annex a document laying down the National Referral Mechanism (NRM).<sup>64</sup> The document is divided into two chapters. In the first chapter, the basic principles underlying the NRM are set out, namely a human rights-based approach, government responsibility, participation of civil society, multi-disciplinary approach, best interests of the child, transparency and transversal issues (e.g. safety, participation of the victim, data protection). The second chapter includes five detailed sets of standard operating procedures (SOP), concerning identification, first assistance and protection, long-term care and social inclusion, voluntary return and social inclusion, and criminal and civil proceedings. There are recommendations and practical measures intended to guide relevant actors who may come into contact with possible victims of trafficking, in particular social workers, interpreters, intercultural mediators, legal guardians, health-care professionals, psychologists, police officers, magistrates, lawyers, prison staff, labour inspectors, NGOs, trade union representatives and diplomatic staff.

144. Furthermore, "Guidelines for the definition of a mechanism for rapid identification of victims of trafficking and serious exploitation"<sup>65</sup> are provided in an annex to the National Action Plan. These guidelines describe the situations in which possible victims of trafficking could be found and the professionals who may be involved in the identification process (e.g. immigration officials, social workers, prosecutors, judges, asylum officers, staff working in detention centres, prison staff, labour inspectors, trade unions, international organisations, law enforcement officers, diplomatic and consular staff). All professionals who come into contact with a presumed victim of trafficking must inform the responsible person in the institution they belong to, following the instructions provided, so that further steps can be implemented. The identification process is divided into two phases: preliminary identification and formal identification. The preliminary identification entails an initial screening for trafficking indicators and responding to the immediate needs of a presumed victim of trafficking (e.g. accommodation, health care, access to information) and ensuring that the person is referred to appropriate specialised services. The formal identification is carried out by asking specific questions and through an evaluation of the information and facts available. There is guidance on how to interview presumed victims of trafficking, lists of general indicators for identifying victims of THB as well as specific indicators related to different forms of exploitation (sexual exploitation, labour exploitation, domestic servitude, begging and petty crime). The Guidelines note that "considering the complexity of the crime of trafficking, as well as the physical and psychological effects suffered by the person, the benefit of the doubt must be given to a person who claims to have been trafficked. It is therefore essential to ensure appropriate assistance and protection both to alleged victims of trafficking and to identified victims of trafficking, since in most cases trafficked persons are initially reluctant to identify themselves as such".<sup>66</sup>

145. GRETA notes the inclusion of the NRM and the related Guidelines in the National Action Plan. However, it became clear during the second evaluation visit that the actual application of the NRM remained at the project stage. A meeting concerning the NRM was reportedly held in 2017, involving the DEO, the Ministry of the Interior and IOM, but since then the dialogue has not been continued. Actors on the ground continue to rely on the local anti-trafficking networks which exist in most Italian regions to identify and refer to assistance victims of THB (see paragraph 147).

<sup>64</sup> <http://www.pariopportunita.gov.it/materiale/piano-dazione-contro-la-tratta-e-il-grave-sfruttamento/>

<sup>65</sup> <http://www.pariopportunita.gov.it/wp-content/uploads/2017/12/allegato-2-linee-guida-rapida-identificazione.pdf>

<sup>66</sup> Unofficial translation.

146. The DEO has continued to fund the national toll-free anti-trafficking helpline (800 290 290) which is run by the municipality of Venice.<sup>67</sup> It receives calls from presumed victims and persons reporting suspicious situations. Eight trained cultural mediators speaking different languages<sup>68</sup> are available around the clock to provide counselling and information and can refer persons in need to the closest project providing assistance to victims of THB. Presumed victims can also be referred to other regions if there are no available places or for security reasons. The national helpline received 4 033 calls in 2017, out of which 1 239 were first time calls and 515 follow-up calls.<sup>69</sup> Most of the calls concerned reports about situations indicative of human trafficking (487), followed by requests for information or services (336), arranging appointments (292) and requests for referrals (190). Most of the calls came from organisations implementing anti-trafficking projects (683). There were 134 calls coming directly from possible victims of trafficking. Of 250 calls where the form of exploitation has been registered, 90% concerned sexual exploitation, 8% labour exploitation, 1% forced begging and 1% forced criminal activities.

147. Local anti-trafficking networks exist in most Italian regions, involving a range of public agencies and non-governmental organisations in the detection, identification and referral to assistance of victims of THB. During the second evaluation visit to Italy, GRETA had the opportunity to meet local anti-trafficking networks in Catania (Sicily) and Pisa (Tuscany). In Catania, the anti-trafficking network, led by the Anti-mafia Prosecutor's Office (DDA), meets periodically with a view to adopting a multi-agency approach to victim identification. In Tuscany, as part of the regional project SATIS, which is led by the Health Service of Pisa and involves relevant local and regional services and NGOs, a regional helpline has been set up, in addition to the national helpline. The national helpline is informed of all cases of victims of THB identified regionally, which have included cases of sexual exploitation, labour exploitation (in the sectors of agriculture, textile and leather manufacturing) and forced begging. The project partners are also involved in the identification of victims of trafficking among asylum seekers.

148. In its urgent procedure report published in January 2017, GRETA paid particular attention to the early identification of victims of trafficking among newly arriving migrants and asylum seekers, in particular at centres of first aid and reception (CPSA or so-called "hotspots").<sup>70</sup> GRETA notes the concerns raised by the UN Special Rapporteur on trafficking in persons, especially women and children, following her thematic visit to Catania, concerning the continued lack of dedicated procedures to identify and protect trafficking victims and potential victims at disembarkation points and in hotspots.<sup>71</sup> Reference should be made to the project ADITUS, which started on 1 January 2017, with co-funding by the Ministry of the Interior and AMIF, and is being implemented in co-operation with IOM until the end of 2019. The project focuses on migrants arriving by sea, with particular reference to victims of trafficking and unaccompanied children, and follows on the previously implemented project Praesidium. As part of this project, IOM operates mobile teams in five hotspots at disembarkation points in Sicily and Puglia,<sup>72</sup> with a view to ensuring early identification of presumed victims of THB, providing them with information and legal advice, and referring them to other structures, as well as capacity-building of staff of local institutions (Prefectures) and first reception centres with regard to the identification of victims of trafficking. IOM was in the process of revising the leaflets distributed to new arrivals concerning human trafficking and the asylum procedure.

<sup>67</sup> See GRETA' first report on Italy, paragraphs 24, 101 and 124.

<sup>68</sup> Italian, English, Spanish, Albanian, Romanian, Russian, Moldovan, Ukrainian, Nigerian, Chinese, Polish, Portuguese, Greek, Arabic, see <http://www.numeroverdeantitrattra.org>.

<sup>69</sup> The other calls were either non-pertinent calls (1 693) or prank calls (586).

<sup>70</sup> See GRETA's urgent procedure report on Italy, paragraphs 31-33.

<sup>71</sup> UN Human Rights Council, Thirty-eighth session, Report of the Special Rapporteur on trafficking in persons, especially women and children, A/HRC/38/45, 14 May 2018, available at: <http://www.gla.gov.uk/media/3588/un-report-on-trafficking-and-human-rights.pdf>

<sup>72</sup> By the end of February 2018, five hotspots were operating in Lampedusa, Pozzallo, Trapani, Taranto and Messina.

149. Furthermore, the Italian authorities have referred to the project Support Action for Vulnerability Emergence (SAVE), co-financed by the European Commission and co-ordinated by the Ministry of the Interior, which started in July 2018. The general objective is supporting the capacity to identify migrants with particular vulnerabilities (including victims of trafficking and unaccompanied children) at the hotspots.

150. In 2017, the Ministry of the Interior and UNHCR published Guidelines for the identification of victims of trafficking among applicants for international protection and referral procedures, which are intended for the Territorial Commissions for the recognition of international protection. The Guidelines provide a Standard Operating Procedure (SOP), including a step-by-step explanation of the process, flowchart, indicators, practical suggestions about how to perform interviews, model documents and a list of 18 specialised anti-trafficking non-governmental organisations running projects for the assistance of victims of trafficking. According to the SOP, the identification of victims of THB takes place in two stages: preliminary and formal identification. Preliminary identification can take place before a person is interviewed by the Territorial Commission, while he/she is still in a first reception centre. Alternatively, during the first interview with an asylum seeker, the designated case-worker may detect the presence of indicators of THB. In such a case, the case-worker has to inform the possible victim about the legislation and rights of victims of THB and to propose to refer him/her to a specialised anti-trafficking organisation which would perform the formal identification. At the same time, the case-worker has to inform the specialised NGO of the location and phone number at which the possible victim can be contacted. The reception centre where the person is accommodated is not supposed to be informed about the referral of a possible victim. While the identification is on-going, with the person's agreement, the examination of the asylum claim is suspended in order to allow time for establishing a relationship of trust and permit the person to reflect (which, according to the Guidelines, corresponds to the recovery and reflection period). The recommended maximum time for suspension of the asylum procedure is four months. After conducting interviews with the presumed victim, the specialised organisation sends a report to the Territorial Commission containing elements assisting it to continue the consideration of the international protection claim. The two protection procedures can continue in parallel, i.e. a person who is identified and assisted as a victim of THB can obtain international protection.

151. GRETA was informed that, as a result of the Guidelines and training provided to staff of Territorial Commissions, the number of victims of THB identified among asylum seekers had increased. Thus in 2017 the Territorial Commission in Rome examined 533 requests for international protection from presumed victims of trafficking, of whom 273 agreed to participate in anti-trafficking programmes; of them, 30 were granted international protection<sup>73</sup> (all from Nigeria), 172 were pending final reports after interviews with specialised NGOs and 71 were reconvened by the Territorial Commission.<sup>74</sup> A survey was carried out in order to collect information on victims of trafficking identified by Territorial Commissions in 2017 and the first quarter of 2018 and on the referral procedure developed in the Guidelines. The replies to the survey by 27 of the 50 Territorial Commissions revealed a noticeable increase in the identification of possible victims of THB and their referral to the anti-trafficking network: 2 606 persons (96.25% women) who applied for international protection were identified as victims of trafficking. A total of 24 Memoranda of Understanding have been concluded for the referral of possible victims of THB between the asylum system and the anti-trafficking system.

<sup>73</sup> 20 persons were granted refugee status and 10 humanitarian protection pending clarification, which entitles them to remain for two years in Italy.

<sup>74</sup> In 2017, the total number of asylum requests from Nigerian women was 8 630; of those, 4 282 requests were examined in 2017, resulting in 631 decisions granting international protection: 559 women (13%) were granted asylum and 73 (2%) subsidiary protection. Another 1 211 women were offered humanitarian protection.



152. While specialised NGOs indicated that the Guidelines had led to visible improvements in the identification procedure and the co-operation with the asylum system, they noted that the growing number of referrals from the Territorial Commissions substantially increased their workload without additional funding being made available, and that the number of places in anti-trafficking projects funded by the DEO was not sufficient to meet the needs. Further, GRETA was informed that not all Territorial Commissions had received training on the Guidelines and their enforcement was non-homogenous across the country. Moreover, NGOs are reportedly not always provided with a phone number at which to contact presumed victims and are not informed when they are moved to another centre. According to specialised NGOs, the suspension period is useful in cases where victims have not been able or willing to tell their stories. However, persons who have already given their stories may perceive the suspension negatively as it prolongs the waiting period. The lengthening of the processing time of asylum requests is a major hindrance to the provision of support for victims of trafficking. The requirement of subsequent interviews by the Territorial Commissions is reportedly applied too rigidly even in cases where a victim decides to pursue a path different from international protection, namely that afforded by Article 18 of Law No. 286/98.

153. GRETA was informed that because of the shortage of places in SPRAR facilities, asylum seekers remain in first-line centres for prolonged periods of time. Many new centres are being opened all the time, run by private entities like hotels. Movement in and out of the centres is unrestricted and there are reports that some women accommodated in first-line centres (CAS) leave them at night and engage in prostitution. The Italian authorities have noted that while centres are open, residents are obliged to return to them in the evening and the centres' managers are responsible for exercising vigilance in this respect. Further, staff working in the centres are being trained within the previously mentioned ADITUS project. Some of the CAS (e.g. in Ragusa) specialise in accommodating women who are possible victims of THB and their staff have received training. However, in general, there is a shortage of specialised centres where presumed victims of THB can be placed with enhanced staff presence and supervision, as well as trained staff to recognise indicators of trafficking. As regards SPRAR facilities, in 2016, there were a total of 4 554 women, including 1 821 Nigerian women, and 83 unaccompanied girls, including 67 from Nigeria.

154. The GRETA delegation visited a first-line centre (CAS) for female asylum seekers located in Torre Angela, a suburb of Rome. The centre comes under the responsibility of the Prefecture and is run by a private company selected by tender. With a capacity of 60, the centre was fully occupied at the time of the visit. Most of the women were from Nigeria. 17 women were regarded as potential victims of trafficking (most of them aged between 19 and 29). Twelve staff members worked at the centre, including a health professional and a psychologist (for six hours per week). The centre's regulations must be signed by each resident and non-compliance may result in exclusion from the centre. The Prefecture assesses violations of the regulations and may allow the readmission of a person in order to give her the chance to be assisted and supported by specialised anti-trafficking organisations. The Prefecture of Rome has joined the anti-trafficking project of the Lazio Region, which deals with the detection, assistance and social integration of the victims of trafficking, with the involvement of specialised NGOs. GRETA was informed that the Guidelines on identification of victims of trafficking in the international protection procedure were followed and the centre's legal practitioner liaised with specialised anti-trafficking NGOs. There had been several cases where the asylum procedures were suspended and the women were referred to anti-trafficking NGOs for interviews. However, there were no cases where women from the centre were transferred to specialised anti-trafficking programmes. According to the staff, two to three women disappear from the centre every month.

155. As noted in paragraph 15, in the absence of a functioning NRM, there are statistics on the number of persons participating in assistance projects. Of the 1 172 victims assisted in 2016, only 92 (7.8%) were victims of labour exploitation. On the other hand, there are indications that trafficking for the purpose of labour exploitation is much more prevalent (see paragraph 79), in particular in the sectors of agriculture, construction, textile, manufacturing domestic and care work. Labour inspections and joint actions with law enforcement agencies have reportedly increased in recent years (see paragraph 91), but the number of identified victims of trafficking for the purpose of labour exploitation remains low.

156. There have been a few identifications of victims of THB for other forms of exploitation such as forced criminality, forced begging and forced marriage. GRETA was informed that only one NGO, On the Road, specialises in detecting and assisting victims of THB for the purpose of forced begging.

157. GRETA welcomes the adoption of the Guidelines for the identification of victims of trafficking among applicants for international protection, the involvement of specialised NGOs in the identification process and the fact that identification as a victim of THB does not depend on the presence of sufficient evidence for the initiation of criminal proceedings. Despite progress made towards drafting a NRM and related guidelines and indicators, they remain to be introduced throughout Italy in a harmonised way. Further, notwithstanding efforts made, the identification of victims of trafficking for the purpose of labour exploitation remains low and disproportionate to the real scale of the phenomenon (see paragraph 79). In a similar vein, the identification of victims of THB for other forms of exploitation, such as forced criminality, forced begging and forced marriage, remains low (see paragraph 15).

158. **GRETA urges the Italian authorities to take further steps to improve the proactive identification of victims of THB, and in particular to:**

- **strengthen the multi-agency involvement in victim identification by introducing into practice a National Referral Mechanism which defines the procedures and roles of all frontline actors who may come into contact with victims of trafficking, and providing guidance and training on its application to all relevant professionals;**
- **increase efforts to proactively identify victims of trafficking for the purpose of labour exploitation, by reinforcing the capacity and training of labour inspectors and other relevant agencies and involving trade unions and NGOs;**
- **take steps to proactively identify victims of trafficking for other forms of exploitation, such as forced criminality, forced begging, forced marriage and organ removal;**
- **provide NGOs involved in the identification of victims of trafficking amongst asylum seekers with sufficient resources to enable them to fulfil the task and enable effective co-operation with NGOs, including those engaged in rescue at sea operations;**
- **ensure identification of possible victims of THB at all border crossings in accordance with the OHCHR's Recommended Principles and Guidelines on Human Rights at International Borders.**



**b. Assistance measures (Article 12)**

159. In its first evaluation report, GRETA urged the Italian authorities to ensure that the provision of assistance to victims of THB is not linked to the victim's co-operation with the investigation and participation in criminal proceedings. Further, GRETA asked the Italian authorities to adapt the funding of assistance programmes to the actual needs, including by providing long-term funding for civil society organisations that run victim assistance projects, and to ensure that there are sufficient places in shelters for male victims across Italy.

160. The legislative basis for assisting victims of trafficking is provided by Article 13 of Law No. 228/2003 on "Measures against trafficking in persons" (which introduced a short-term special support programme of three months, extendable by three months) and Article 18 of the Consolidated Immigration Act (which set up a long-term protection and integration programme of six months, extendable by a year).<sup>75</sup> As noted in paragraph 24, pursuant to the Decree of the President of the Council of Ministers of 16 May 2016, the two types of projects related to these two provisions were merged into a "Single programme for the emergence, assistance and social integration of victims of trafficking and exploitation". As a result, organisations implementing projects for the assistance of victims of THB do not have to apply separately for funding of "Article 13" and "Article 18" projects. The length of the funding has been extended to 15 months, rather than the previous 12 months, which is a welcome development.

161. The Decree of the President of the Council of Ministers of 16 May 2016 stipulates that the funding of the Single Programme is entirely guaranteed with the resources allocated to the annual budget of the Department for Equal Opportunities (DEO). The DEO has to publish a specific call for proposals for projects implementing the Single Programme, ensuring at the same time that they cover the entire territory of Italy. The proposals can be submitted by regions, autonomous provinces, municipalities, private entities registered in the register of associations, and organisations working with migrants.

162. In 2016, the funding disbursed by the DEO for victim assistance projects amounted to 14.5 million euros, which represents a significant increase compared to the funding in 2015 (8 million euros). Regional and local governments reportedly provide additional funding for anti-trafficking projects, but no figures are available. Further, a number of religious organisations also fund assistance to victims of trafficking.

163. Following the first call for proposals under the Single Programme in August 2016, not all regions submitted proposals and only 18 projects were funded for the 15 months from September 2016 to November 2017. As a result, several regions (Valle D'Aosta, Piedmont, Liguria, Basilicata, Sardinia) did not have projects funded by the DEO and in Sicily, only one project was approved.

164. In December 2017, the funding disbursed by the DEO increased to 22.5 million euros and a total of 21 projects were approved (including three in Sicily). As of May 2017, 1 382 victims of human trafficking received assistance under these projects, about 90% of them being women.

165. GRETA was informed that out of the 21 projects, the majority focused on assisting women victims of THB for the purpose of sexual exploitation, there still being a shortage of facilities for victims of labour exploitation and in particular men. The total number of shelter places funded by the DEO has increased from 700 to 1 500. However, the available places are still not commensurate with the number of presumed victims of THB, many of whom were accommodated in centres for asylum seekers (see paragraph 171).

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<sup>75</sup> See paragraph 137 and following of GRETA's first report on Italy (GRETA(2014)18).

166. Further, GRETA was informed that victims of THB from EU countries (mostly Romania and Bulgaria) have limited access to assistance and shelters funded by the DEO through the Single Programme. The Italian authorities have indicated that there were 35 EU citizens included in victim assistance projects in 2018 (up to 16 October 2018), primarily from Romania and Bulgaria, of whom 28 were female and seven male; there were three children amongst them.

167. In the province of Catania (Sicily), two NGOs run anti-trafficking projects with funding from the DEO: Proxima and Penelope. Penelope carries out outreach activities aimed at persons engaged in prostitution and runs six shelters. It also provides health care and counselling to migrants and potential victims of THB at *Asianda Sanitaria Provinciale* (ASP) in Catania. The NGO Proxima runs shelters and carries out outreach work focusing on labour exploitation in the agricultural sector.

168. GRETA visited a shelter run by the NGO Proxima in Ragusa. It had a capacity of 10 beds (three en-suite bedrooms with three beds each and one room with one bed) and was accommodating 10 Nigerian women at the time of the visit. Women with children are accommodated in separate flats (semi-autonomous living) and there is a separate house for men (autonomous living). Proxima was in the process of setting up a new facility with 20 beds for women. The project employed a total of 39 staff, including legal advisors and cultural mediators. As part of the project, an ecological garden plot provides work for some of the victims, as well as a tailoring workshop producing patchwork and other decorative items (*sartoria sociale*). Proxima collaborates with the Territorial Commission in the identification of victims of THB among asylum seekers.

169. GRETA met organisations implementing the project SATIS in Tuscany (see paragraph 147), which is funded jointly by the DEO and the regional authorities and can provide accommodation to up to 80 victims of THB and their children in several municipalities. All available places were filled at the time of GRETA's visit, mostly by Nigerian women. The GRETA delegation visited a shelter for women victims of trafficking in the Province of Pisa, run by the NGO Donne in Movimento. It provided places for eight women. At the time of GRETA's visit, seven women (five from Nigeria, one from Brazil and one from Somalia), as well as the child of one of the women, were hosted in the shelter. Two of the women had jobs. Two social workers worked full time at the shelter. Staff noted that the 15 months' duration of the project was insufficient for the rehabilitation and social integration of women who need time to learn Italian, acquire professional skills, and find work. After the expiry of the 15 months, the NGO continues to help victims through its own means.

170. The GRETA delegation also visited a shelter for male victims of trafficking in the Province of Pisa run by the NGO Arnera. With a capacity of six, it is the only shelter for men in Tuscany. At the time of the visit, it hosted six men (from Nigeria, Morocco, Tunisia, Ghana and Senegal) who had been referred through the anti-trafficking helpline. Two of them had denounced the captain of the boat which transported them to Italy. The project SATIS covers the rent of the apartment where the shelter is located and pays weekly allowances to the victims. Three part-time employees work at the shelter. A personal development plan is set up for every person, but it is very difficult to find work for them.

171. Prior to the adoption of Law No. 113/2018 (see paragraph 28), the SPRAR system used to have specific places for vulnerable asylum seekers, including victims of THB. An individual plan was designed for each beneficiary and implemented by a multi-disciplinary team, including cultural mediators. However, the shortage of places in the SPRAR system resulted in the accommodation of many possible victims of THB in reception centres (CARA, CAS) which do not meet their specific needs of victims of trafficking and create risks of trafficking. There is a lack of dedicated places for asylum seekers who are presumed victims or victims of THB in reception centres. GRETA is concerned by media reports about organised crime organisations having penetrated the running of reception centres.<sup>76</sup> The situation with regard to the accommodation and assistance of victims of THB has led some countries, such as Finland, to stop returning victims of THB to Italy.<sup>77</sup>

172. GRETA welcomes the significant increase in the funding made available for victim assistance in 2017 and the availability of more places for victims of THB, including for men, and stresses the importance of ensuring that sufficient funding continues to be provided for victims' assistance projects. While welcoming the fact that the duration of projects under the "Single programme for the emergence, assistance and social integration of victims of trafficking and exploitation" has been extended to 15 months, GRETA notes that this time period is often not long enough to enable the rehabilitation and social integration of victims. Further, GRETA is concerned that the important increase in the number of presumed and formally identified victims of trafficking, in particular among asylum seekers, is not met by the opening up of specialised facilities for such persons. GRETA is also concerned that the new legislation which excludes asylum seekers from access to reception centres focusing on social inclusion results in victims of trafficking being left without assistance.<sup>78</sup>

**173. GRETA urges the Italian authorities to ensure the availability of dedicated centres for asylum seekers who are presumed victims of trafficking.**

**174. Further, GRETA considers that the Italian authorities should:**

- **evaluate the funding needs of victim assistance programmes and adapt the respective resources, ensuring that there are sufficient accommodation places for female and male victims of THB;**
- **adapt the length of assistance programmes to the individual needs and vulnerability of victims to enable their rehabilitation and integration.**

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

175. In its first report, GRETA urged the Italian authorities to pay increased attention to detecting victims of THB amongst unaccompanied children, to create specific assistance projects and shelters for child victims of THB, taking due account of their special needs and the best interests of the child, and to address the problem of disappearance of unaccompanied foreign children by providing suitable safe accommodation and assigning adequately trained legal guardians. Further, GRETA stressed the need for developing age assessment tools and effectively implementing the presumption and the measures foreseen in Article 10, paragraph 3, of the Convention when the age of the victim is uncertain and the measures foreseen in Article 10, paragraph 4, of the Convention if an unaccompanied child is identified as a victim of trafficking.

<sup>76</sup> *Mafia in Italy Siphons Huge Sums of Government Aid From Migrant Centers*, New York Times, 18 July 2017, available at: <https://www.nytimes.com/2017/07/17/world/europe/italy-migrants-mafia-edoardo-scordio.html>

<sup>77</sup> Finnish Immigration Services, *The assistance system for victims of human trafficking in Italy is over-strained – the returning of persons to be considered more carefully* (published on 23/02/2017), available at: [https://migri.fi/en/artikkeli/-/asset\\_publisher/italian-ihmiskaupan-uhrien-auttamisverkosto-kuormittunut-palautuksia-harkitaan-jatkossa-entista-tarkemmin](https://migri.fi/en/artikkeli/-/asset_publisher/italian-ihmiskaupan-uhrien-auttamisverkosto-kuormittunut-palautuksia-harkitaan-jatkossa-entista-tarkemmin)

<sup>78</sup> *Vulnerable migrants made homeless after Italy passes 'Salvini decree'*, The Guardian, 7 December 2018, available at: <https://www.theguardian.com/world/2018/dec/07/vulnerable-migrants-made-homeless-after-italy-passes-salvini-decree>

176. Further, in its urgent procedure report published in January 2017, GRETA paid particular attention to the identification, assistance and protection of victims of trafficking among unaccompanied children. GRETA noted the serious lack of capacity to accommodate unaccompanied children in Sicily and Italy in general. GRETA was seriously concerned by the fact that unaccompanied children disappear within a few days of being placed in reception centres. In the context of rapid disappearances, it is not possible to establish whether the child is already in the process of being trafficked and what are his/her concrete individual protection needs, including possible international protection.

177. According to a report by Save the Children, the overwhelming majority of unaccompanied children arriving in Italy have already been exploited on the way.<sup>79</sup> The report indicates a rise in the number of girls from Nigeria and Romania forced into prostitution, as well as boys from Egypt and Bangladesh exploited for forced labour, drug trafficking and prostitution. However, official data fail to give an accurate picture as the number of children who receive assistance through projects funded by the DEO is low: in 2016, only 111 children were placed in the anti-trafficking system (94 girls and 17 boys), most of them Nigerian, followed by Romanians (see paragraph 15). This data ignores the overwhelming majority of young victims of THB who are left outside the official anti-trafficking system.

178. The National Action Plan pays particular attention to the need to fully protect the rights of children in close co-ordination with child protection institutions. It contains in an annex the Standard Operating Procedures "AGIRE for the identification and support of child victims and at risk of trafficking", developed by Save the Children Italy and a network of partner organisations from Austria, Greece and Romania.<sup>80</sup> These SOP require that a specially trained guardian be immediately appointed in order to accompany the child throughout the identification process. Formal identification interviews must be preceded by a "reflection time" and take place in a child-friendly space under the responsibility of a qualified professional. The child's best interests are repeatedly stressed as a key principle.

179. Specific protection for trafficked children is provided by Law No. 47/2017 on unaccompanied children, Article 17 of which is dedicated to child victims of THB and provides for specific long-term programmes of reception and assistance (including after coming of age). According to the explanatory report to Law No. 47/2017, the allocation of 154 080 euros per year, starting from 2017, referred to in Article 17 is assigned to the Ministry of Justice and covers the cost of legal aid of unaccompanied foreign children who are victims of trafficking.

180. Furthermore, according to Article 9 of Law No. 47/2017, the Ministry of Labour and Social Policies should create a restricted access national information system regarding unaccompanied children (SIM). This system registers the entrance and path of each child on Italian territory, including personal data, eventual identification document and information about concluded or pending administrative procedures, such as guardianship or applications for asylum. Qualified staff of the reception structure compile a "social file" for each unaccompanied child, highlighting elements useful for determining the best long-term solution, in the child's best interests. The "social file" is transmitted to the social services of the municipality of destination and to the Public Prosecutor's Office attached to the relevant Juvenile Court.

181. Useful references for the officers operating at disembarkation/arrival places are contained in the Standard Operational Procedure applicable to the hotspots, which is disseminated by the Department for Civil Liberties and Immigration of the Ministry of the Interior. Unaccompanied children are entitled to receive information about their legal status and its possible developments. They have to be hosted in dedicated first reception centres. In cases of doubt regarding their age and if a further verification is not possible, the persons shall be treated as children.

<sup>79</sup> <https://www.savethechildren.it/sites/default/files/files/uploads/pubblicazioni/piccoli-schiavi-invisibili-2017.pdf>  
<sup>80</sup> <http://www.pariopportunita.gov.it/wp-content/uploads/2017/12/allegato-5-pos-minori.pdf>

182. In Catania, GRETA was informed of efforts made to detect victims of trafficking at an early stage among newly arrived unaccompanied children. Many of the Nigerian girls are instructed by criminal networks to claim that they are adults and may be placed in centres for adults, pending the verification of age. IOM teams working at disembarkation points and hotspots try to arrange that unaccompanied children are transferred immediately to protected facilities with trained staff and Nigerian cultural mediators. As a measure of protection, children's mobile phones are taken away and they are allowed to call home only in the presence of a person who can follow the conversation. Whenever they leave the reception centre, they have to be accompanied by a staff member.

183. GRETA was informed that the number of accommodation places for child victims of THB remained largely insufficient. Thus, in the region of Calabria, there were only two places for child victims funded by the DEO. In Sicily, there were no specialised shelters for child victims of trafficking. Children are sometimes placed in large facilities which are not adapted to their situation. By way of example, GRETA was informed that the CPA in Syracuse accommodated many unaccompanied girls and was not providing an appropriate environment for them. The Prosecutor's Office can inspect reception centres and issue an order for their closing down if they are not appropriate. If a prosecutor considers that a child is at risk, he/she contacts the Juvenile Court and the child is transferred within 48 hours to a more protected facility. There are 14 judges specialised in dealing with unaccompanied children in Catania (both professional and lay judges, including a psychiatrist) who interview the children, aiming to build relations of trust.

184. As noted in paragraph 108, the SPRAR network of accommodation facilities was gradually expanded over the years, including with AMIF funding. It provided 3 500 places for unaccompanied children in September 2018, compared to 3 100 in 2017 and 400 in 2014; 50 places were dedicated for unaccompanied children with special needs and vulnerabilities, including victims of THB. However, GRETA is concerned by the implications of the new law on international protection, immigration and public security on the availability of accommodation for child victims of THB.

185. Reference should be made to a report by the National Guarantor for the rights of persons deprived of their liberty (*Garante nazionale dei diritti delle persone private della libertà*), Italy's National Preventive Mechanism set up in application of the Optional Protocol to the UN Convention against Torture (OPCAT), which raises concerns with regard to unaccompanied children arriving in Italy by sea who, due to the absence of places in dedicated structures, end up being held in hotspots for lengthy period of times (on average 13 days in Taranto, 15 in Lampedusa and 17.5 in Pozzallo). The Italian authorities have stressed that, as a result of the decreasing number of arrivals by sea, this situation has been resolved and the responsible authorities have managed to transfer all unaccompanied children to first reception shelters and have opened up new places (see paragraph 108). The authorities acknowledge that unaccompanied children still transit through the hotspots, but no cases have been reported of prolonged stays.

186. Order No. 686 of 12 January 2017 of the Italian Supreme Court (sixth civil section) clarified that the competent court for the appointment of a guardian of an unaccompanied child pursuant to Article 19, paragraph 5, of Legislative Decree No. 142/15 is the ordinary court where the child resides. In this way, quick action can be ensured, in consideration of the territorial proximity of the competent body. In addition to legal guardians, Law No. 47/2017 provides for the appointment of voluntary guardians (*tutore volontario*). The Ombudsman for Children and Adolescents is involved in the selection and training of voluntary guardians and lists of such guardians have been established at juvenile courts. The need for continuous training and monitoring of voluntary guardians was stressed by many interlocutors. Some interlocutors stressed that voluntary guardians cannot replace specialised lawyers who represent the children.

187. Article 5 of Law No. 47/2017 establishes the procedure and responsibilities relating to the age assessment of unaccompanied children. In case of doubt about the person's age, this is assessed first through the examination of identity documentation in his/her possession. If serious doubts persist, sociological and medical examinations can be ordered by the Public Prosecutor's Office at the Juvenile Court on a request from the Public Security Authority. The person is informed that his/her age may be assessed through such examinations, the consequences of the results and of his/her refusal to undergo some of them. Information is provided in a child-friendly manner with the assistance of a cultural mediator and delivered also to the (temporary) guardian. The person concerned must give his/her consent before being subject to the examination for age assessment and has the right to receive a copy of the medical report. The examinations are to be carried out in an adequate environment by qualified personnel following a multidisciplinary procedure which considers the specifics of the child's ethnic and cultural origin. The results are communicated to the person concerned, his/her guardian and the Juvenile Court. The final report contains the margin of error of the results. Pursuant to Article 7, pending age determination and identification, a victim of trafficking is considered to be a child with a view to having immediate access to care, support and protection. The final decision on the age is to be made by the Juvenile Court. If doubts persist about the migrant's age, s/he shall be treated as child. The steps of the multidisciplinary age assessment are detailed in a Procedure developed by the Ministry of Health, in consultation with relevant institutional stakeholders, including the Ministry of the Interior, which is due to be adopted by the Unified State-Regions Conference. Several local protocols are already in place, which are inspired by the procedure outlined in Article 5. GRETA invites the Italian authorities to ensure that the best interests of the child are effectively protected during age assessment procedures, 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>81</sup>

188. GRETA refers to the Concluding observations of the UN Committee on the Elimination of Racial Discrimination (2017) highlighting the inadequate protection of unaccompanied and separated children whose guardianship system is not sufficiently individualised and places too much responsibility on some municipalities.<sup>82</sup> Further, GRETA notes the Concluding Observations of the UN Human Rights Committee (2017) concerning the inadequate age determination procedure, delays in the appointment of guardians, conditions in first-level reception centres, and numbers of children going missing from reception centres.<sup>83</sup>

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<sup>81</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.](#)

<sup>82</sup> Committee on the Elimination of Racial Discrimination, Concluding observations on the nineteenth and twentieth periodic report of Italy, 9 December 2016, p.5, available at: [https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/ITA/CERD\\_C\\_ITA\\_CO\\_19-20\\_26015\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/ITA/CERD_C_ITA_CO_19-20_26015_E.pdf)

<sup>83</sup> Human Rights Committee, Concluding observations on the sixth periodic report of Italy, 1 May 2017, available at: [https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR/C/ITA/CO/6&Lang=En](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR/C/ITA/CO/6&Lang=En)

189. While welcoming the adoption of Law No. 47/2017 and other legislative developments which strengthen the protection of unaccompanied children, including victims of THB, **GRETA urges the Italian authorities to:**

- **adopt as a matter of priority a National Referral Mechanism for child victims of THB which takes into account the special circumstances and needs of child victims, involves child specialists and ensures that the best interests of the child are the primary consideration in all proceedings relating to child victims of THB and children at risk;**
- **ensure that relevant actors take a proactive approach and increase their outreach work to identify child victims of THB for different forms of exploitation, by paying particular attention to unaccompanied and separated children and children from Roma communities;**
- **ensure that child victims of THB across the country, regardless of whether they seek asylum or not, benefit from the assistance measures provided for under the Convention, including appropriate accommodation, effective access to free legal assistance and psychological support;**
- **take further steps to address the problem of children going missing while in the care of the State and ensure that there are clear instructions as to which institution holds the lead responsibility for tracing missing children and for taking appropriate measures to notify all relevant authorities in order to ensure that children are traced and provided with appropriate protection;**
- **monitor the effectiveness and quality of the voluntary guardianship system;**
- **ensure long-term assistance for the integration of child victims of trafficking.**

d. **Protection of private life (Article 11)**

190. As mentioned in paragraph 35, the National Action Plan provides for the setting up of a comprehensive centralised database on THB and refers to data protection as one of several cross-cutting topics that must be considered in the implementation of any measure under the National Referral Mechanism. According to NGOs, there are no clear guidelines on collecting and saving data in the existing national database on victims of trafficking (SIRIT), which is managed by the DEO. The Italian authorities have not provided information on the legislative provisions protecting the confidentiality of information and the private life of victims of THB. In this context, reference is made to the recommendation in paragraph 63.

e. **Recovery and reflection period (Article 13)**

191. In its first evaluation report, GRETA urged the Italian authorities to review the legislation in order to ensure that the recovery and reflection period is specifically defined in law and that all the measures of protection and assistance envisaged in Article 12, paragraphs 1 and 2, of the Convention are made available during this period. GRETA stressed that the recovery and reflection period must not be made conditional on the victim's co-operation with the law enforcement authorities, and that during this period, the enforcement of any expulsion orders must be suspended.

192. The recovery and reflection period provided for under the Convention is still not expressly laid down in Italian law. The Italian authorities have argued that the "special support programme" under Article 13 of Law No. 228/2003 on "Measures against trafficking in persons" fulfils the purpose of the recovery and reflection period, as assistance is provided to victims regardless of their co-operation with the investigation for a period of three months, which may be extended by an additional three months. As noted previously, since 2016, the Single Programme has replaced the previous dual approach based on short-term and long-term projects, under respectively Article 13 of Law No. 228/2003 and Article 18 of the Consolidated Immigration Act. The Italian authorities have not provided statistics on the number of persons who participated in Article 13 projects prior to 2016.

193. The document describing the National Referral Mechanism, which is annexed to the National Action Plan (see paragraph 143), refers to the recovery and reflection period as "measure 5", explaining the purpose of this period (i.e. to allow the person to recover and take an informed decision), and stressing that it must be granted regardless of whether the person co-operates as a witness and that it is indispensable for the person to have greater trust in the State and its ability to protect his/her interests. It is noted that the recovery and reflection period must be granted immediately after the identification of plausible facts that lead to the belief that the person involved is a victim, and must last at least 30 days. The person must receive information regarding the goals, duration, restrictions and benefits of the recovery and reflection period. No questioning must take place during the period in question and the decision to collaborate with law enforcement authorities should be taken at the end of the reflection period. During the recovery and reflection period, the person must be provided with secure accommodation, assistance and protection, information on options available for long-term care, legal opportunities and assisted voluntary return, and temporary authorisation to reside in the national territory. Expulsion orders must be suspended during the recovery and reflection period. The application of the recovery and reflection period is ensured by the organisation providing assistance to the person or, in the case of children, legal guardians.

194. While the inclusion of a detailed description of the recovery and reflection period in the NRM document is a welcome development, GRETA is concerned that, in the absence of an explicit legal framework concerning the recovery and reflection period, presumed victims of THB in Italy risk being deported 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.

195. **GRETA once again urges the Italian authorities to review the legislation in order to ensure that the recovery and reflection period is specifically defined in law as provided for in Article 13 of the Convention, and that all possible foreign victims of trafficking are offered a recovery and reflection period and all the measures of assistance envisaged in Article 12, paragraphs 1 and 2, of the Convention during this period.**



#### f. Residence permits (Article 14)

196. In its first report, GRETA welcomed the possibility for victims of trafficking in Italy to be granted a residence permit both on the basis of their personal situation ("social path") and when co-operating with the authorities ("judicial path"). GRETA invited the Italian authorities to take steps to ensure that victims of THB can fully benefit in practice from these provisions, regardless of the form of exploitation, including by systematically informing them, in a language they understand, about the two paths leading to a residence permit and offering both paths in an equal manner.

197. The legal provisions concerning the granting of residence permits to victims of THB have not changed since the first evaluation by GRETA.<sup>84</sup> It should be recalled that, pursuant to Article 18 of the Consolidated Immigration Act No. 286/1998, the issuing of the permit is conditional on the person's participation in an assistance and social integration programme. Under the "social path", the issuing of the residence permit by the *Questura* is requested by NGOs or public social services that have discovered a situation of violence or serious exploitation against a foreign national. In this case, the trafficked person is not obliged to co-operate in the criminal proceedings. Under the "judicial path", the public prosecutor makes the request for the issuing of a residence permit to the *Questore* when the victim decides to co-operate with the police and prosecution in the framework of criminal proceedings. In this scenario, the residence permit issued under Article 18 has a duration of six months and may be renewed for one year or a longer period, e.g. the time necessary to complete criminal proceedings against perpetrators. Child victims of THB automatically receive a residence permit until their coming of age. The residence permit can be converted into a residence permit for education or work, allowing the victim to remain in Italy.

198. According to NGO representatives, the "social path" for issuing residence permits to victims of THB is not applied consistently and some officials interpret narrowly the conditions for issuing a permit under Article 18, namely the existence of a "concrete risk" and "gravity and imminence of the danger". Further, there are long waiting periods for issuing of residence permits and difficulties in the conversion of the residence permit granted to victims into a work permit, which is conditional on the existence of an employment contract. At the same time, it was acknowledged that the number of persons being granted some form of international protection on the grounds of having been trafficked has increased (see paragraph 151), although there are no national statistics on this issue. GRETA is concerned by the implications of the abolition of humanitarian protection status for victims of trafficking.

199. According to information provided by the Ministry of the Interior, the number of residence permits issued under Article 18 for humanitarian reasons was 381 in 2013 (including 20 for labour exploitation), 265 in 2014 (including four for labour exploitation), 228 in 2015, 316 in 2016 and 419 in 2017 (including one for labour exploitation). The main countries of origin of the victims granted residence permits were Nigeria, Albania, Egypt, Morocco, Bangladesh, Gambia, Senegal and Pakistan. GRETA notes that the number of residence permits is considerably lower than the number of victims of trafficking assisted (e.g. 1 172 in 2016).

<sup>84</sup> See first GRETA report on Italy, paragraphs 157-163.

200. Further, GRETA notes that it is still very rare for the residence permit foreseen in Article 18 of the Consolidated Immigration Act to be granted to victims of trafficking for the purpose of labour exploitation. Pursuant to Article 22, paragraph 12-quarter, of the Consolidated Immigration Act, which was introduced through Legislative Decree No. 109/2012 ("Rosarno Law"), a residence permit can be granted to a foreign person who has been subjected to aggravated forms of labour exploitation as foreseen in Article 603 bis, paragraph 3, of the CC (i.e. at least three persons are concerned, or at least one of the workers concerned is less than 16 years old, or the person is exposed to serious dangers related to the characteristics of work or the working conditions). This residence permit can be issued by the *Questore*, on a proposal or with the approval of a public prosecutor, on the condition that the person concerned submits a complaint and co-operates in criminal proceedings against the employer. It has a duration of six months and may be renewed for one year or longer depending on the length of the criminal proceedings. According to NGO representatives, the possibility to issue this type of residence permit is not well known to prosecutors and is rarely applied. The Italian authorities have not provided statistics on the issuing of residence permits under Article 22, paragraph 12-quarter, of the Consolidated Immigration Act.

201. **GRETA considers that the Italian authorities should continue making efforts to ensure that victims of trafficking, regardless of the form of exploitation, can fully benefit in practice from the right to obtain a renewable residence permit for their personal situation or for co-operating with the authorities, without prejudice for the right to seek and enjoy asylum. In this context, GRETA refers to the UNHCR 2006 Guidelines on the application of the Refugees Convention to trafficked persons.**<sup>85</sup>

g. **Compensation and legal remedies (Article 15)**

202. In its first report, GRETA urged the Italian authorities to facilitate and guarantee access to compensation for victims of trafficking by ensuring that they are systematically informed of the right to seek compensation and the procedures to be followed. Further, GRETA called on the Italian authorities to ensure that victims have effective access to legal assistance and legal aid, including by derogating from the requirement of proving that their earnings are below a certain income limit. This means test has in practice an excluding effect for foreign victims who are obliged to prove their income not only in Italy, but also in their home countries, which is often either extremely difficult or even impossible (e.g. for Nigerian victims).

203. As explained in GRETA's first report, victims of THB may file a request for compensation from the perpetrator during the criminal procedure by bringing a civil action pursuant to Articles 74 and 75 of the Code of Criminal Procedure. The judge can decide on the amount of compensation due, rule that the victim has a right to compensation without fixing the precise amount, or fix the amount of an advance payment to be made to the victim. In the latter two cases the victim has to bring a civil action to obtain a decision on the final amount.

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<sup>85</sup> [UNHCR, Guidelines on International Protection: The application of Article 1A\(2\) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees to victims of trafficking and persons at risk of being trafficked, HCR/GIP/06/07, 7 April 2006.](#)

204. According to civil society representatives and lawyers met by GRETA, the procedures to access compensation for victims of THB in Italy are complex. Lawyers usually bring civil actions during criminal proceedings against the traffickers on behalf of victims and associations defending them in order to obtain compensation. However, according to ASGI (Association for Legal Studies on Immigration), the insufficient use of Article 601 of the CC results in a very limited number of claims for compensation.<sup>86</sup> The Italian authorities could not provide information on compensation awarded to victims of THB and only one example of compensation was given by civil society actors (see paragraph 206). Thus it does not appear that any measures have been taken to promote effective compensation of victims of THB. There is no real possibility for victims of THB to claim damages and compensation after their return to their country of origin.

205. Law No. 199/2016 provides for measures aimed at improving the criminal prosecution of offences under Article 603 bis of the CC ("*caporalato*"), in particular with regard to illicit capital accumulation and the confiscation of money, goods and property acquired through exploitation, as well as providing for compensation to victims. It introduces the precautionary measure of judicial control over the company, replacing seizure in cases where the interruption of the business activity could have negative consequences on the employment levels or compromise the value of the company; the introduction of a mitigating circumstance in case of co-operation with the judicial authority in the seizure of money or other assets; in the cases of conviction or plea bargain, the obligatory confiscation of the objects that were used or were intended to be used to commit the offence, as well as the obligatory confiscation of money, goods and profits with unjustified origin.

206. By way of example, lawyers informed GRETA of a case, dating back to 2014, which was prosecuted under Article 603 bis of the CC ("*caporalato*"). It concerned the exploitation of 16 men from Bangladesh in a textile workshop. The men had been recruited by the employer, also Bengali, but were not registered, worked very long hours and without any days off, and were paid between 200 and 400 euros per month. The employer was convicted and the production facilities seized. The court ordered the payment of compensation to the workers, but the employer had no money. Pro bono legal assistance was provided by the Rome University Legal Clinic.

207. Italy does not have a scheme for compensation by the State to victims of violent crimes committed on its territory, which guarantees fair and appropriate compensation to victims, as required by Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims. In October 2016 the European Court of Justice (ECJ) of the European Union found that Italy does not comply with EU law.<sup>87</sup> The Italian government argued that the provision of the Directive leaves it to the Member States to decide which crimes may, on their territory, qualify for compensation by the State. However, the ECJ held that, by failing to adopt all the measures necessary to guarantee the existence, in cross-border situations, of a compensation scheme for victims of all violent intentional crimes committed on its territory, the Italian Republic has failed to fulfil its obligations under Article 12(2) of Directive 2004/80/EC.

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<sup>86</sup> ASGI, Main relevant issues with regard to the Italian legislation in defense of victims of trafficking, available at [https://www.asgi.it/wp-content/uploads/public/1\\_0013\\_tratta\\_onu\\_asgidocumenti.pdf](https://www.asgi.it/wp-content/uploads/public/1_0013_tratta_onu_asgidocumenti.pdf)

<sup>87</sup> Case C-601/14 - European Commission v Italian Republic. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:62014CJ0601&from=GA>

208. In cases where compensation cannot be obtained from the offender or where the perpetrator is unknown, victims of trafficking can request State compensation pursuant to Legislative Decree 24/2014, which introduced amendments to Article 12 of Law No. 228/2003 on "Measures against trafficking in persons". Compensation is to be paid from the Fund for anti-trafficking measures which is intended to finance support and social integration programmes for victims of THB and can also be used for the compensation of victims. The compensation is limited to 1 500 euros per victim. The request for compensation has to be submitted within five years of a judgment recognising the right to compensation. When introducing the request, the victim needs to prove that he/she has not received compensation from the offender. If the perpetrator of the crime is unknown, the victim can make the request within one year from the order of closing the relevant criminal procedure. According to the authorities, only one request for State compensation was received, in 2017, but it was declined. An administrative procedure for disbursing compensation has been drafted and a working group entrusted with the task of specifying the criteria. According to the draft, it is not necessary for a victim of trafficking to be represented by an attorney to file for a compensation claim. However, the procedure for the evaluation of applications has not yet been formalised.

209. Legislative Decree No. 212 of 15 December 2015 implementing Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime introduced a new Article 90-bis in the Code of Criminal Procedure, entitled "Information to the victim", concerning the information that has to be given to victims of crime at the first contact with the prosecuting authority. This information, to be provided in a language the victim understands, includes the entitlement to legal assistance and free legal aid, and to request compensation for damages suffered as a result of the offence.

210. **GRETA is concerned by the failure to implement Article 15 of the Convention and once again urges the Italian authorities to take steps to facilitate and guarantee access to compensation to victims of THB, and in particular to:**

- **review the criminal and civil procedures regarding compensation from perpetrators with a view to improving their effectiveness;**
- **enable victims of trafficking to exercise their right to compensation, by informing them, in a language they can understand, of the right to compensation and the procedures to be followed, and building the capacity of legal practitioners to support victims to claim compensation;**
- **include victim compensation in the training programmes for law enforcement officials, prosecutors and judges;**
- **enable victims of trafficking who have left Italy to benefit from the possibility of claiming compensation;**
- **set up a State compensation scheme effectively accessible to victims of THB, regardless of their nationality and immigration status, and review the maximum amount of 1 500 euros of compensation paid by the State in order to ensure that it corresponds to the actual harm suffered by victims;**
- **make full use of the existing legislation on the freezing and forfeiture of assets to secure compensation to victims of trafficking.**

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

211. In its urgent procedure report, published in January 2018, GRETA expressed serious concerns about the manner in which the forced removals of possible victims of human trafficking were conducted, the lack of transparency and information given to the persons concerned, their lawyers and interested NGOs, and the methods of forced repatriation used. GRETA urged the Italian authorities to conduct individual risk assessments prior to the return of trafficked persons to their countries of origin, in co-operation with the countries of return, international organisations and NGOs, as well as to facilitate their reintegration in countries of origin. Further, GRETA stressed that voluntary returns are to be preferred in order to ensure the rights, safety and dignity of the victim and encouraged Italy to use forced returns of victims of trafficking as a measure of last resort only. As regards children, GRETA urged the Italian authorities to ensure that the best interests of the child are effectively protected, through a risk assessment prior to any return, by specialised bodies in co-operation with relevant bodies in countries of origin.

212. Article 3 of Law No. 47/2017 prohibits the *refoulement* of unaccompanied children at the border, thus amending Article 19 of Legislative Decree No. 286/98 (Consolidated Immigration Act). Expulsion, subject to the appraisal of the Juvenile Court, may be decided only for reasons of public order and State security. Article 8 of the law regulates the assisted voluntary return of unaccompanied children, which may take place for reasons of family reunification and must be subject to an evaluation of the best interests of the child by the Juvenile Court. There are no indications of forced returns of unaccompanied children following the adoption of the new law.

213. In 2016, the Ministry of the Interior's Department for Civil Liberties and Immigration used the AMIF 2014-2020 to set up five projects for assisted voluntary return (AVR) and reintegration, which ran until June 2018. A sixth project, funded by Italy, ended in December 2017. Currently, another project is operational until the end of 2018. These projects are not specifically for victims of trafficking, but offer AVR to vulnerable persons in general. They provided for a 400 euro pre-departure contribution in cash as well as a contribution in kind amounting to from 1 500 to 2 000 euros for reintegration activities in the country of destination. Most of the persons who accept the AVR offer have already spent some time in Italy before deciding to go back to their countries of origin. According to IOM, which supports the implementation of the AVR projects, there are only rare cases of victims of THB being returned under the AVR scheme and they are all subject to risk assessment. According to the Ministry of the Interior, in 2017, 11 victims of THB and four possible victims of THB, all Nigerian, were returned under the AVR scheme. According to civil society representatives, some Nigerian women who accept the AVR run risks of social stigmatisation on return.

214. According to the State Police, in 2017, there were 6 514 forced removals of irregular migrants, of which 3 695 were by air (mostly to Morocco, Tunisia, Albania and Nigeria). There were very few forced removals to Libya.

215. Since the spring of 2016, forced return flights are monitored by the National Guarantor of the rights of persons deprived of their liberty. Up to November 2018, the National Guarantor had monitored a total of 22 forced return flights (15 to Tunisia and 7 to Nigeria). This monitoring has brought to light cases of Nigerian women whose removal had been ordered despite the fact that they had applied for international protection and whose deportation proceedings were only suspended because this was discovered during monitoring by the National Guarantor. The main recommendations made by the National Guarantor concern the need for better communication with the persons subject to forced removal, the risks of returning persons who are under 18 years of age, contrary to the legislation in force, and the use of coercive measures and forced returns only as a measure of last resort.

216. The absence of standardised procedures for the detection, identification and referral to assistance of victims of THB carries the risk of possible victims being detained in repatriation holding centres (CPRs) and subjected to forced removal, in violation of the non-punishment provision. Access of specialised NGOs to CPRs, which is essential for detecting possible victims of trafficking, is currently possible only in the CPR in Ponte Galeria, Rome. The regulations governing the functioning of CPRs (previously called CIEs), issued in 2014, envisage a medical examination of persons placed in a CPR, which could be conducive to identifying vulnerabilities, in particular amongst persons subjected to physical, sexual or psychological violence. However, NGOs report that these medical examinations are superficial and are limited to detecting contagious diseases.

217. Civil society representatives have continued to raise concerns about the impact of readmission agreements or memoranda of understanding (e.g. with Nigeria, Tunisia, Libya, Sudan) which establish simplified identification and return procedures, and the lack of attention to the risk of returning THB victims. Despite the adoption of Law No. 47/2017, children may still be subjected to forced removal because of errors in age assessments. The process of identification of new migrants is so fast that it does not allow for the detection of victims of THB, who are often unaware of their status and may be issued immediately with an immediate expulsion order because they indicate in the form which is completed in respect of each new arrival that "the reason for arriving in Italy in an irregular manner" is "to escape poverty",<sup>88</sup> following which they receive an immediate expulsion order. This is precisely what happened in September 2015 when 19 Nigerian women were forcibly returned to Nigeria despite displaying signs of being victims of human trafficking.<sup>89</sup> At the beginning of 2017, the Ministry of the Interior ordered that 95 rooms be made available (45 for men and 50 for women) within the currently operative repatriation holding centres (CPR), to be utilised to identify "irregular self-styled Nigerian citizens traced within the national territory and their successive repatriation". ASGI has denounced this tracing and repatriation on an ethnic basis, which is all the more worrying as it is well-known that Nigerian women are frequently trafficked for the purpose of sexual exploitation.<sup>90</sup> Lawyers have referred to the case of a Nigerian woman who arrived in Lampedusa in July 2015, after being trafficked through Libya. Upon disembarkation, she was immediately issued with an expulsion order by the *Questore* of Agrigento and was transferred to the CPR in Ponte Galeria, Rome, where she made a request for international protection. The request was rejected by the Territorial Commission in Rome and an appeal was lodged with the competent tribunal. In the meantime, the Nigerian woman was put on a forced return flight on 17 September 2016. The woman in question, whose life is apparently under threat if she remains in Nigeria, subsequently returned to Italy in 2017 and made a new request for international protection.

218. As stressed by GRETA in its 5th General Report, expedited removal procedures allow only limited time to assess each individual case and there may not be enough time to identify each trafficked person.<sup>91</sup> GRETA refers to Article 16 of the Convention, which states that the return of victims of trafficking shall preferably be voluntary, must take due regard of the rights, safety and dignity of the victim, and must also take account of the status of any legal proceedings related to the fact that the person is a victim. Article 16 of the Convention should be read along with Article 40, paragraph 4, which specifically mentions the principle of *non-refoulement* and provides that its applicability is in no way affected by the Convention.

<sup>88</sup> The form contains, *inter alia*, a question about "the reason for arriving in Italy in an irregular manner", with specific options presented: "to seek work", "to escape poverty", "to seek asylum" or "to reunite with the family".

<sup>89</sup> See GRETA's urgent procedure report, paragraphs 57 and following.

<sup>90</sup> ASGI, "A qualitative leap in the repressive policies: tracing and repatriation on ethnical basis", available at: <https://www.asgi.it/english/nigeria-italy-repressive-policies-repatriation-ethnical-basis/>

<sup>91</sup> GRETA's 5th General report, paragraph 125.

219. Reference should be made to the “Memorandum of understanding on co-operation in the fields of development, the fight against illegal immigration, human trafficking and fuel smuggling and on reinforcing the security of borders between the State of Libya and the Italian Republic” signed on 2 February 2017. It follows on previous agreements signed between the two countries, focussed on curbing migratory flows and enhancing readmission. This partnership was suspended in 2012 as a result of the collapse of the Libyan government and following the European Court of Human Rights judgment in *Hirsi Jamaa and others v. Italy*, in which Italy was found to be in violation of the principle of *non-refoulement* and the prohibition of collective expulsions.<sup>92</sup> The new memorandum outlines two main objectives: the control of migratory flows and support to the development of the region. If the memorandum were to be implemented according to its wording, migrants would be blocked and most probably pushed-back at the Libyan southern border, or would be intercepted by the Libyan coast guard upon departure to Europe by sea and transferred back to local reception camps pending repatriation or voluntary return to their countries of origin.<sup>93</sup>

220. GRETA refers to the Report of the UN Special Rapporteur on trafficking in persons, especially women and children, which states that: “No migrant should, after rescue operations, be forcibly returned to Libya, where gross violations of human rights, including torture, sexual violence, trafficking and slavery, are systematically perpetrated in detention centres and “connection houses”.”<sup>94</sup> A recent case has been communicated to the European Court of Human Rights against Italy, based on accounts of two applicants, one of whom is reported to have been tortured and sold on return to Libya, following a ‘pull-back’ operation.<sup>95</sup> Recalling the Council of Europe Commissioner for Human Rights’ letter to the Libyan authorities<sup>96</sup> and the Court’s judgment in *Hirsi Jamaa and others v. Italy*, GRETA notes that the obligation of *non-refoulement* applies also to Italian operations in Libyan territorial waters.

221. Further, GRETA notes the Concluding Observations of the UN Human Rights Committee (2017) on continued reports of the collective expulsion of migrants, including the deportation of 48 Sudanese migrants in August 2016.<sup>97</sup> In this context, the European Court of Human Rights has communicated to the Italian Government a case concerning returns to Sudan.<sup>98</sup> GRETA also refers to the Concluding Observations of the UN Committee against Torture (2017) and its recommendation that the accelerated procedures under readmission agreements and Law No. 46/2017 are subject to a thorough assessment on a case-by-case basis of the risks of violations of the principle of *non-refoulement*.<sup>99</sup>

222. The Italian authorities have not provided information on the safeguards put in place to ensure that the obligation of *non-refoulement* is adhered to, in accordance with Article 40(4) of the Convention, and the prohibition of collective expulsions, including in operations undertaken in Libyan territorial waters.

<sup>92</sup> European Court of Human Rights, *Hirsi Jamaa and others v. Italy*, application No.27765/09, judgment of 23 February 2012, (paragraphs 146-158) available at: <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-109231>

<sup>93</sup> Anja Palm, *The Italy-Libya Memorandum of Understanding: The baseline of a policy approach aimed at closing all doors to Europe?*, *EU Immigration and Asylum Law and Policy*, available at: <http://eumigrationlawblog.eu/the-italy-libya-memorandum-of-understanding-the-baseline-of-a-policy-approach-aimed-at-closing-all-doors-to-europe/>

<sup>94</sup> UN Human Rights Council, Thirty-eighth session, Report of the Special Rapporteur on trafficking in persons, especially women and children, A/HRC/38/45, 14 May 2018, p.6, available at: <http://www.gla.gov.uk/media/3588/un-report-on-trafficking-and-human-rights.pdf>

<sup>95</sup> <https://www.ejiltalk.org/high-risk-high-reward-taking-the-question-of-italys-involvement-in-libyan-pullback-policies-to-the-european-court-of-human-rights/>; see also <https://www.theguardian.com/world/2018/may/08/italy-deal-with-libya-pull-back-migrants-faces-legal-challenge-human-rights-violations>

<sup>96</sup> <https://rm.coe.int/letter-to-the-minister-of-interior-of-italy-regarding-government-s-res/168075baea>

<sup>97</sup> Human Rights Committee, Concluding observations on the sixth periodic report of Italy, 1 May 2017, available at: [https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR/C/ITA/CO/6&Lang=En](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR/C/ITA/CO/6&Lang=En)

<sup>98</sup> *W.A. and others v Italy*, Application no. [18787/17](https://www.coe.int/t/EN/codoc/treaties/ECHR/18787/17)  
<http://hudoc.echr.coe.int/eng?i=001-179588>

<sup>99</sup> UN Committee against Torture, Concluding observations on the combined fifth and sixth periodic reports of Italy, 18 December 2017, available at: <https://www.ohchr.org/en/countries/enacaregion/pages/itindex.aspx>



223. **GRETA urges the Italian authorities to continue to take steps to ensure that the return of victims of THB is conducted with due regard to their rights, safety and dignity, including the right to *non-refoulement* (Article 40(4) of the Convention), and in the case of children, by fully respecting the principle of the best interests of the child. Recalling the judgment of the European Court of Human Rights in *Hirsi Jamaa and others v. Italy*, GRETA urges the Italian authorities to ensure that individualised assessments of risk are undertaken in all cases prior to any forced returns or expulsions, including during operations in Libyan territorial waters. In this context, the authorities should continue to develop co-operation with countries of origin and transit of victims in order to ensure comprehensive risk and security assessment (Article 16(7) of the Convention) and safe return of the victims, as well as their effective reintegration on return. Full consideration should be given to the UNHCR's Guidelines on the application of the Refugees Convention to trafficked persons.**<sup>100</sup>

### 3. Substantive criminal law

#### a. Criminalisation of THB (Article 18)

224. The definition of THB in Article 601 of the Italian CC, entitled "Trafficking in persons", was modified through Legislative Decree No. 24/2014 and, more recently, through Legislative Decree No. 21 of 1 March 2018. It currently reads as follows:

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

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

The penalty for the commander or officer of a national or foreign vessel who commits any of the facts provided for in the first or second subparagraphs is increased by up to a third.

The crew member of a national or foreign ship destined, before departure or in navigation, to trafficking in human beings, is punished even if no fact has been accomplished under the first or second paragraph or slave trade, with imprisonment from three to ten years."<sup>101</sup>

<sup>100</sup> [UNHCR, Guidelines on International Protection: The application of Article 1A\(2\) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees to victims of trafficking and persons at risk of being trafficked, HCR/GIP/06/07, 7 April 2006.](#)

<sup>101</sup> Unofficial translation.



225. In its first evaluation report, GRETA noted that the new text of Article 601 of the CC brought the Italian definition of THB closer to the one contained in the Convention. However, GRETA noted that the action of “receipt” and the means of “abduction” were not explicitly mentioned. The Italian authorities have stated that “receipt” is covered by the offence provided for by Article 601 of the CC, even if not expressly indicated. According to the Italian authorities, “abduction” is covered as the actions typified by the provision in Article 601 of the CC presuppose or imply the illicit deprivation of the personal liberty of the victim. **In order to be fully consistent with the definition of THB in the Convention, GRETA considers that the Italian authorities should ensure that “receipt” as one of the actions and “abduction” as one of the means for committing THB are appropriately taken into account in practice.**

226. In its first report, GRETA considered that stating explicitly the irrelevance of the consent of a victim to the intended exploitation could improve the implementation of anti-trafficking provisions and provide victims with greater confidence in self-reporting to NGOs and public authorities. There have been no legislative changes in this regard. According to the Italian authorities, the consent given by a victim of trafficking has no legal relevance. Nevertheless GRETA sees benefits in stating explicitly in legislation that consent is irrelevant to determining whether the crime of human trafficking has occurred. Setting out this pivotal principle in law could facilitate its use by investigators, prosecutors and judges when dealing with cases of human trafficking and facilitate 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 exploitation; when deciding on the penalty for offenders where there are assertions of consent.<sup>102</sup> **GRETA once again considers that the Italian authorities should take steps to state explicitly in law the irrelevance of the consent of a victim of trafficking to the intended exploitation.**

227. There is no explicit definition of a “situation of vulnerability” in Article 601, but Legislative Decree No. 24/2014 referred to certain groups of persons as vulnerable, by stipulating in its Article 1, paragraph 1, that “in implementing the provisions of this Legislative Decree, account shall be taken, on the basis of an individual assessment of the victim, of the specific situation of vulnerable persons such as minors, unaccompanied minors, elderly people, disabled people, women, especially if pregnant, single parents with minor children, persons with mental disorders, persons who have been subjected to torture, rape or other serious forms of psychological, physical, sexual or gender violence”.<sup>103</sup>

228. Forced begging and forcing a person to perform unlawful activities were introduced as forms of exploitation under Article 601 of the CC in 2017.

229. Although Italy has been strengthening its efforts to prevent and eliminate forced marriages, Article 601 of the CC does not explicitly acknowledge the relevance of forced marriage to THB offences. Nevertheless, the National Action Plan acknowledges forced marriages as well as illegal adoptions as included in the many forms of exploitation that may affect children and which must therefore be taken into account to put in place adequate tools and mechanisms of protection.

230. Reference has already been made to the revision of Article 603 bis of the CC through Law No. 199 of 29 October 2016, which penalises “conducting organised brokering activities by recruiting workers or organising their working activity with a view to exploiting them, through the use of violence, threat or intimidation, or taking advantage of their vulnerable condition or state of need”. The 2016 amendments extend the offence to the employers behind the exploitation, making it punishable by between one and six years’ imprisonment (or up to eight years’ imprisonment if a worker is subjected to violence or threats) and a fine from 500 to 1 000 euros in relation to each worker concerned.

<sup>102</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)

<sup>103</sup> Unofficial translation.

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

231. In its first report, GRETA invited the Italian authorities to consider criminalising the use of services of a victim of THB, with the knowledge that the person is a victim. There have been no legal changes in this respect. To GRETA's knowledge, there is no discussion in Italy about the possible introduction of such a provision and the National Action Plan does not address this issue.

**232. GRETA considers that the Italian authorities should adopt legislative measures to criminalise the use of services with the knowledge that the person is a victim of THB, as stipulated by Article 19 of the Convention.**

**c. Corporate liability (Article 22)**

233. Legislative Decree No. 231 of 8 June 2001 established the liability of legal entities for specific offences. The liability is administrative in nature, but is decided by a penal judge according to criminal law procedures. The entity concerned can avoid liability by demonstrating that it has adopted a sound and appropriate organisation and management model to prevent offences of the kind that have occurred and that it has established an internal control body entrusted with monitoring and supervising compliance with this model. The list of offences falling under the application of the law has been extended over time and includes slavery (Article 600 of the CC), trafficking in human beings (Article 601 of the CC) and illegal brokering and labour exploitation (Art. 603 bis of the CC). The penalties provided for include a ban from business activity, suspension or withdrawal of licenses and permits, prohibition from obtaining public procurement contracts, exclusion or revocation of financing and subsidies, prohibition of the advertising of goods and services, confiscation of profits, as well as fines of up to 1.5 million euros. The Italian authorities have not provided information on any legal entities in Italy found liable for offences in relation to THB.

**234. GRETA invites the Italian authorities to keep under review the application of the legal provisions concerning corporate liability for THB with a view to ensuring that the sanctions or measures are effective, proportionate and dissuasive.**

**d. Non-punishment of victims of THB (Article 26)**

235. In its first report, GRETA urged the Italian authorities to ensure compliance with Article 26 of the Convention through the adoption of a provision on non-punishment of victims of trafficking for their involvement in unlawful activities, to the extent that they were compelled to do so, or by developing relevant guidance.

236. Italian law still lacks a specific provision prohibiting the punishment of THB victims in accordance with Article 26 of the Convention. As noted in GRETA's first report, the Italian legal framework provides that a person is not punishable for a criminal offence committed in a "state of necessity", i.e. when the person has been forced to commit the offence under violence or threat (Article 54 of the CC). This applies to victims of THB obliged to commit an unlawful act, as long as the victim has been officially identified and when the exploitation has been proven in a criminal procedure against the traffickers.

237. However, it has been repeatedly reported by NGOs that when the exploitation is not proven, victims of THB are convicted of criminal offences (for instances, in cases of pickpocketing or drug smuggling). Furthermore, the non-punishment clause is reportedly often not applied for offences such as illegal entry or presence in the state territory, which are typically linked to the situation of being trafficked. GRETA was informed of cases where Egyptian and Senegalese boys were placed in custody on charges of people smuggling, risking up to 12 years' imprisonment, despite the fact that they were themselves being smuggled or trafficked and were put in charge of the boats by the perpetrators. In this context, the Prosecutor's Office in Catania has reportedly sent a circular letter indicating that such children should not be accused of people smuggling. The Co-ordinating National Community of Hospitality network (CNCA) has teams working in prisons in the region of Lombardy which have reportedly observed signs of victimhood among prisoners, some of whom after serving their prison terms were assisted through anti-trafficking projects.

238. The document describing the National Referral Mechanism, which appears as an annex to the National Action Plan against THB, stipulates that victims of THB shall not be subjected to detention, criminal proceedings or fines of any kind on the grounds of their irregular immigration status or for other illegal activities committed in the context of their exploitation.<sup>104</sup>

239. **GRETA once again urges the Italian 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 if an accused person is a potential victim of trafficking and to consider trafficking in human beings as a serious violation of human rights. While the identification procedure is 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>105</sup>

#### 4. Investigation, prosecution and procedural law

##### a. Measures related to ensuring effective investigations (Articles 1, 27 and 29)

240. In its first report, GRETA urged the Italian authorities to ensure that crimes related to THB for all types of exploitation are proactively investigated and prosecuted promptly and effectively, leading to proportionate and dissuasive sanctions.

241. Since Law No. 228/2005 established that the competence to prosecute THB offences lies within the jurisdiction of the District Anti-mafia Directorates, the National Anti-mafia and Anti-terrorism Directorate (DNA) has played a co-ordination role in this respect. The DNA is responsible for overseeing and co-ordinating the criminal prosecution of organised crime offences, including THB and slavery, by the 26 District Anti-Mafia Directorates (DDA) across Italy. Furthermore, anti-mafia prosecutors play an important role in the *Questore's* decision on the issuing of residence permits for victims of THB.

242. Within each provincial police headquarters (*Questura*), there is a criminal investigation team dealing with cases of THB. The Carabinieri Special Operations Group (ROS) is mainly responsible for dealing with organised crime and terrorism and for investigating THB. Further, investigations in THB cases are carried out by the *Guardia di Finanza*. The District Anti-mafia Prosecutor Offices decide which service(s) should investigate a given case and co-ordinates their co-operation.

<sup>104</sup> Appendix 1 to the NAP, page 62.

<sup>105</sup> <http://www.osce.org/secretariat/101002?download=true>

243. Specialised sections for investigating cases of child exploitation, in particular of sexual exploitation, distribution of child sexual abuse images and sex tourism, exist within the criminal investigation divisions of *Questure*. Further, the National Centre for the Fight against Internet Child Pornography, under the Ministry of the Interior, co-ordinates national activities, based on information provided by Internet providers, network operators, Interpol and Europol channels, NGOs and information on financial transactions supplied by the Bank of Italy.

244. As already explained in GRETA's first report, the special investigation techniques which can be used in THB cases are the same as for investigations against the mafia or other organised crime groups, including undercover operations, informants, wiretapping, electronic surveillance, delayed execution of orders and warrants, video surveillance, monitoring and freezing of bank accounts.<sup>106</sup> These techniques are routinely used in THB cases.

245. The National Action Plan stresses the need to carry out proactive financial investigations in cases of human trafficking and to collect data from financial investigations. Both the Carabinieri and *Guardia di Finanza* referred to examples of cases, described below, where they investigated financial transactions in the context of THB crimes. In this context, the *Guardia di Finanza* provided information on financial flows discovered in investigations under Article 603 bis of the CC.

246. The Carabinieri provided examples of several anti-trafficking investigations concluded during the reporting period. For example, an operation entitled "Cults" targeted a transnational Nigerian criminal group trafficking young African women for sexual exploitation, as well as engaged in drug trafficking. The investigation was conducted by the Carabinieri Special Operations Group (ROS) and was concluded in May 2014, resulting in the detention of 34 perpetrators and the seizure of real estate, bank accounts and cars for a total value of 2 million euro.

247. The "Piana" operation concerned trafficking in human beings for the purpose of labour exploitation, run by a transnational multi-ethnic criminal organisation which brought Romanian citizens, mostly female, to the province of Salerno to work in farms. The investigations started in 2013 and were conducted by the ROS in close collaboration with the Romanian authorities. The operation ended in 2015 with the arrest of eight suspects (Italian and Romanian).

248. In 2016-2017, the "Nigeria" operation was carried out against a Nigerian transnational criminal group trafficking young Nigerian women for sexual exploitation. The investigation was conducted by the ROS under the supervision of the DDA in Lecce and was concluded in June 2017. Five Nigerian citizens were arrested.

249. *Guardia di Finanza* also provided information on investigations in THB cases. In February 2013, the operation "Caronte" led to the dismantling of a Nigerian trafficking network, with the arrest of 22 perpetrators and the identification of 54 victims. In the course of the investigations, it was established that the suspects had transferred almost all their illicit proceeds to Nigeria. It was not possible to quantify the money of illicit origin moved, due to the lack of traceability of financial transactions.

250. In 2014, *Guardia di Finanza* concluded the operation "Transilvania" against a criminal association mainly composed of Romanian citizens who engaged in trafficking young Romanian women for exploitation in prostitution, with the arrest of five perpetrators and the accusation of 35 persons.

251. As part of the "BOGA" operation, *Guardia di Finanza* arrested between June and October 2016 five Nigerian and one Ghanaian citizens who were part of a transnational criminal association operating between Nigeria, the Maghreb countries and Italy, dedicated to the facilitation of illegal immigration, trafficking in human beings, enslavement and exploitation of prostitution.

<sup>106</sup> See paragraph 194 of GRETA's first report.

252. In a report to the Italian Parliament, the Ministry of the Interior provided statistics on persons reported and/or arrested for offences under Articles 600 ("placing or holding a person in condition of slavery or servitude"), 601 ("trafficking in persons") and 602 ("purchase and sale of slaves") of the CC. According to it, 323 persons were reported and/or arrested in 2014, 368 in 2015 and 351 in 2016; of them, 604 persons were reported and/or arrested under Article 600, 339 under Article 601 and 54 under Article 602. The prevalent nationalities of the reported and/or arrested persons were Romanian (324) and Nigerian (280), followed by Italian (166) and Albanian (101) citizens.<sup>107</sup>

253. According to figures provided by the National Anti-Mafia Directorate, the number of criminal proceedings registered by district anti-mafia prosecutors related to Articles 600, 601 and Article 602 was 147 in 2014 (112 proceedings in respect of a total of 391 perpetrators and 35 proceedings against unknown perpetrators). In 2015, a total of 165 criminal proceedings were initiated (120 proceedings against 344 perpetrators and 45 proceedings against unknown perpetrators). In 2016, there were 287 proceedings (164 proceedings against 443 perpetrators and 123 proceedings against unknown perpetrators). In 2017, there were 424 proceedings (219 proceedings against 557 perpetrators and 205 proceedings against unknown offenders). These figures are indicative of an increase over the reporting period, in particular in relation to THB (Article 601): 57 proceedings in 2014, 70 in 2015, 160 in 2016 and 287 in 2017.<sup>108</sup> The highest number of proceedings related to Articles 600 in the period 2014-2017 were registered in Catania (183), followed by Palermo (78) and Rome (47). GRETA was informed of proactive investigations carried out by officers of the police investigation unit specialised in THB and prostitution, who go to the disembarkation sites and interview possible victims of THB at an early stage. Some 30 arrests of presumed traffickers of Nigerian origin have taken place.

254. According to judicial statistics provided by the Ministry of Justice, the number of convictions under Article 601 of the CC was 10 in 2015, 2 in 2016 and 2 in 2017. The number of convictions under Article 600 of the CC was higher: 39 in 2015, 18 in 2016 and 2 in 2017. GRETA notes that the statistics provided are not disaggregated by form of exploitation. The Italian authorities have not provided GRETA with information on how many of the convictions resulted in imprisonment and what the length of the prison sentences was. Further, no information was provided as regards any convictions handed down in the cases referred to in paragraphs 246-251.

255. GRETA was informed by prosecutors that it was easier to prosecute offences under Article 603 bis of the CC ("illegal brokering and labour exploitation") than under Article 601 ("trafficking in persons"). According to statistical data provided by the Italian authorities, there were 65 proceedings opened pursuant to Article 603 bis of the CC in 2015, 66 in 2016 and 135 in 2017. The number of concluded proceedings was 38 in 2015, 69 in 2016 and 122 in 2017. As regards convictions, there were none in 2015, two in 2016 and 12 in 2017. The Italian authorities have also indicated that in 2017, 94 suspects were referred to the judicial authorities pursuant to Article 603 bis of the CC (as compared to 9 persons in 2016); 387 victims of exploitation were identified. In 2018, 80 persons were referred to the judicial authorities under Articles 603 bis of the CC, of whom 15 were detained; 500 victims of exploitation were identified.

256. The research centre *L'Altro diritto* at the University of Florence has monitored 46 investigations by 16 Prosecution Offices of offences related to illegal brokering and labour exploitation (Article 603 bis of the CC). The majority of the victims of exploitation in these cases were EU nationals; five of the investigations also involved Italian nationals. The cases mostly concerned exploitation in agriculture, but 12 took place in other economic sectors, including textile factories. The research found that behaviours punished under Article 603 bis of the CC often fall within more serious offences, such as Article 600 or Article 601 of the CC, but are not prosecuted under these articles. In some cases, the investigation started under Article 600 of the CC, but was later qualified as illegal brokering and labour exploitation.

<sup>107</sup> *Relazione al Parlamento sull'attività delle Forze di Polizia, sullo stato dell'ordine e della sicurezza pubblica e sulla criminalità organizzata*, anno 2016, pp.50-54.

<sup>108</sup> For Article 600 (slavery), the figures were: 87 in 2014, 90 in 2015, 121 in 2016 and 124 in 2017. Under Article 602 (purchase and sale of slaves), only a few proceedings were registered: three in 2014, five in 2015, six in 2016 and 13 in 2017.

257. In 2016, there were isolated reports of government officials complicit in human trafficking. The authorities launched an investigation into a police officer and his wife accused of providing apartments to Brazilian workers, who were suspected trafficking victims, and demanding excessive rent. The Italian authorities have provided no information on the outcome of this investigation.

258. Further, the authorities have not provided information on whether any investigations have been carried out as regards sexual abuse of children via online streaming on the Internet.

259. GRETA welcomes the increase in the number of investigations and prosecutions related to THB and illegal brokering and labour exploitation, the attention paid to conducting financial investigations and the seizure and confiscation of assets derived from THB offences. However, GRETA is concerned that the number of convictions for THB remains low. **GRETA urges the Italian authorities to take measures to ensure that THB offences are investigated and prosecuted effectively, leading to proportionate and dissuasive sanctions.**

260. **Further, GRETA considers that the Italian authorities should continue to take measures to:**

- **improve the knowledge of investigators, prosecutors and judges about the seriousness of THB, the severe impact of exploitation on the victims and the need to respect their human rights;**
- **strengthen efforts to investigate and prosecute cases of trafficking for the purpose of labour exploitation, as well as for other forms of THB other than sexual, for example forced begging and forced criminality;**
- **systematically carry out financial investigations in order to locate, seize and confiscate the assets of the perpetrators.**

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

261. In its first report, GRETA considered that the Italian authorities should make full use of all measures available to protect victims and witnesses of THB and to prevent intimidation during the investigation and during and after the court proceedings.

262. The decree of the President of the Council of Ministers of 16 May 2016 setting up the "Single programme for the emergence, assistance and social integration of victims of trafficking and exploitation" stipulates that projects must provide for secret facilities suitable for residential reception and must take into account the safety needs of victims.

263. As explained in GRETA's first report, protection measures in the framework of witness protection programmes are laid out in Law No. 82/1991, as amended by Law No. 45/2001. The protective measures, which apply to witnesses and their family members, include, *inter alia*, physical protection, temporary placement in a safe location, permanent relocation, concealment or change of identity, provision of financial or social support, medical and psychological assistance. The decision to admit a person into the witness protection programme is taken by the Central Commission for the Development and Implementation of Protection Programmes, upon a proposal by the prosecutor responsible for the criminal case. The main criterion for granting protection measures is that the witness or his/her close relatives are under serious threat due to their testimony. The Central Witness Protection Unit, within the Criminal Police Central Directorate, is responsible for implementing witness protection programmes.

264. An important means to protect a trafficked person who stands as a witness and to prevent secondary victimisation is the so-called "special evidence pre-trial hearing" (*incidente probatorio*) foreseen in Articles 392-404 of the Code of Criminal Procedure (CCP). This closed hearing can be requested during the pre-trial investigation, both by the victim and the prosecutor, and follows the same rules as a hearing during the trial phase. If the defence counsel is present at this special pre-trial hearing, the evidence presented, including the witness testimony, can be used as evidence at the trial and statements made do not need to be repeated. According to NGOs, this provision is being used in most THB cases. Legislative Decree No. 24 of 2014 introduced a new paragraph 5-ter to Article 398 of the CCP which extended the possibility of using specific measures for the protection of children in respect of adult persons who are particularly vulnerable (for example, the hearing can take place at a place where specialised assistance is provided to the person concerned or at the residence of the victim).

265. According to Articles 351, 362 and 391bis of the CCP, the assistance of an expert in child psychology is required when a child is being interviewed by the police, the prosecutor or the defence counsel in relation to certain offences, including THB. The trial is always conducted *in camera* when the victim is a child (Article 472, paragraph 3 bis, of the CCP). Further, the Court can be assisted by a family member or an expert in child psychology when examining a child victim (Article 498, paragraph 4, CCP). The National Plan for the Prevention and Fight against Abuse and Sexual Exploitation of Children envisages the drafting of guidelines defining the best practices for the court hearing of child victims,<sup>109</sup> but no such guidelines have yet been drafted. In this context, GRETA refers to the Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice.<sup>110</sup>

**266. While welcoming the range of victim and witness protection measures provided for in Italian law, GRETA considers that the Italian authorities should ensure that the existing provisions on the protection of victims and witnesses are effectively applied to protect victims and witnesses of THB at the investigation, trial and post-trial stages, in particular by securing budgetary resources to cover the costs of protecting victims/witnesses of THB collaborating with the authorities, including their relocation for security reasons.**

### c. Jurisdiction (Article 31)

267. Pursuant to Article 6 of the CC, anyone who commits a crime on the territory of Italy is punishable according to Italian law. An Italian citizen who commits a crime on foreign territory for which Italian law establishes a minimum term of imprisonment of three years (which is the case for THB), is also punishable under Italian law, provided that he/she is present on Italian territory (Article 8 of the CC). A foreigner who commits a crime to the detriment of an Italian citizen on foreign territory, and for which Italian law establishes imprisonment for a period of not less than one year, is punishable under Italian law, provided that he/she is present on Italian territory and there is a request from the Minister of Justice or an application or complaint from the injured party (Article 10 of the CC).

268. If a foreigner commits a crime against another foreigner on foreign territory, the perpetrator is punished according to Italian law, at the request of the Minister of Justice, provided that: 1) he/she is present on Italian territory; 2) the crime committed is punishable by imprisonment of at least three years; 3) the extradition of the perpetrator has not been granted or accepted by the government of the State in which he/she committed the crime, or by the State whose citizen he/she is (Article 10 of the CC).

<sup>109</sup> National Plan to Prevent the Sexual Abuse and Exploitation of Children 2015-2017, pages 35 and 40, available (in English) at: <http://www.pariopportunita.gov.it/wp-content/uploads/2017/12/piano-contro-la-pedofilia-ENG.pdf>

<sup>110</sup> [Guidelines of the Committee of Ministers of the Council of Europe on child friendly justice](#) (Adopted by the Committee of Ministers on 17 November 2010 at the 1098th meeting of the Ministers' Deputies)



## **5. International co-operation and co-operation with civil society**

### **a. International co-operation (Articles 32 and 33)**

269. The National Action Plan against THB addresses the aspect on international co-operation on a number of occasions, in particular under prevention and action in countries of origin, as well as support measures for countries of origin as regards institutional reinforcement, improvement of living conditions, legislative drafting and support to victims and persons at risk of THB. In the chapter on judicial co-operation, reference is made to proactive financial investigations in co-operation with Europol and Interpol, the possible use of JITs, and the conclusion of bilateral agreements with countries of transit and origin.

270. The DNA has signed memoranda of understanding with a number of countries regarding trafficking. Recently, memoranda of understanding were signed with Libya and Egypt. According to the DNA, it has encouraged District Prosecuting Offices to use strategic contacts for international co-operation, including by making use of Article 34 of the Convention, which provides for direct information exchange, in order to allow a direct and dynamic approach to investigations. The DNA has sometimes been successful in activating parallel investigations, through bilateral co-operation with foreign counterparts. However, the DNA pointed to difficulties of co-operation with some countries which are not parties to the Convention, in particular in Africa.

271. With the adoption of Legislative Decree No. 34 of 15 February 2016, Italy transposed the European Union's Council Framework Decision 2002/465/JHA on joint investigation teams (JITs). At the time of the visit in February 2018, Italy had not yet participated in JITs in THB cases, but prosecutors in Catania noted that they were in the process of examining the possibility of setting up JITs. Italy is increasingly participating in activities against human trafficking in the framework of the European Multidisciplinary Platform against Criminal Threats (EMPACT).

272. In November 2017, Italy deposited the instrument of ratification of the EU Convention on Mutual Assistance in Criminal Matters.

273. THB was one of the priorities for Italy during its membership of the United Nations Security Council in 2017. During the Italian presidency of the Security Council in November 2017, UN Security Council Resolution 2388 on trafficking in persons, especially women and children, in areas affected by armed conflicts was adopted. Italy contributed one million US dollars to the UN Voluntary Trust Fund for the support of victims of THB in 2017. Further, Italy provided funding of 200 000 euros to UNODC for the Global Action against Trafficking in Persons and Smuggling of Migrants (GLO.ACT), designated for the development of strategies and policies against THB in Mali and for protection systems for child victims of THB and witnesses of crimes in Niger. Another project, entitled "Strengthening the Transnational Response to Smuggling of Migrants and Maritime Crime in West, North and East Africa", aims to increase international co-operation against the smuggling of migrants (2.5 million euros).

274. As part of the efforts to strengthen OSCE's activities in combating trafficking in human beings, the Italian OSCE Chairmanship-in-Office has provided financial support to an OSCE extra-budgetary project "Multidisciplinary Measures to Protect Children from Trafficking, Labour Exploitation and Risky Migration" in Albania and the organisation of the fifth OSCE human trafficking simulation-based learning activity in Vicenza (see paragraph 43), for a total amount of 100 000 euros.

275. The Italian Agency for Development Co-operation (AICS) funds several international projects which have elements linked to combating THB. One of them is PAPEV ("Project of support to the protection of minor victims of human rights violations"), implemented in 2017-2019 in Senegal, Guinea, Guinea Bissau, Gambia, Mali and Niger by the Office of the United Nations High Commissioner for Human Rights (OHCHR). It aims at developing an integrated system for the protection and promotion of children's rights at a national and local level. AICS contributed 3.5 million euros to this project. An IOM-implemented project entitled "Addressing Migrant Vulnerabilities to Prevent Human Trafficking and Protect Victims, Particularly Children, in Targeted Special Economic Zones and Economic Corridors in Cambodia, Laos and Vietnam", which ended in March 2017, was supported by AICS with 600 000 euros.

276. The AICS has also funded a number of country-specific projects, for example to protect Albanian children in certain municipalities (of Tirana, Durrës, Elbasan, Fier and Scutar) from trafficking, exploitation and irregular migration (75 000 euros). In Egypt, the AICS contributed two million euros to a UNICEF-run project to develop protective and supporting interventions for children and adolescents, both Egyptians and migrants, at risk of social exclusion. In Ethiopia, a project implemented by the Italian NGO CIAI to combat child trafficking in the most affected areas ended in early 2018 (one million euros' funding). In addition, AICS has worked in close collaboration with UNICEF for the implementation of the project "Strengthening the Civil Registration System for Children's Right to Identity" in order to protect Ethiopian children from violence, abuse, exploitation and ensure their access to basic services. New funding is envisaged to support Ethiopia in ensuring the right to identity to all children, with a contribution of one million euros to the Federal Vital Events Registration Agency (FVERA), in partnership with the Italian National Institute of Statistics. In selected countries of the Sahel Region, the project CINEMARENA (worth 1.5 million euros) is being implemented with the objective of informing public opinion through local and international media about the risks of irregular migration and raising awareness regarding the vulnerabilities of migrants.

277. As part of the activities under the National Action Plan against THB, a Working Group on International Co-operation was set up, led by the Ministry of Foreign Affairs, which made three project proposals concerning micro-financed projects, the training of police forces in countries of origin and the exchange of information and experiences between civil society actors. GRETA has not been provided with information about the outcome of these proposals.

278. Civil society actors informed GRETA that there were no development co-operation projects with Nigeria, which is by far the biggest country of origin of victims of trafficking in Italy. The Ministry of Foreign Affairs has reportedly established a list of NGOs eligible to carry out development co-operation projects, but this list does not include any specialised anti-trafficking NGOs.

279. Regarding missing persons, Law No. 203 of 14 November 2012, containing "Provisions for the search for missing persons", sets out the tasks to be performed where a person has been reported missing. The search for the missing person immediately starts and the name of the person concerned is entered into the relevant police database. In parallel, the Prefecture is informed and activates the provincial plan for missing persons. The information is also made available via international police co-operation channels.

280. The European hotline to report missing children, "116000", has existed in Italy since 2009 and is managed by the NGO "SOS - Il Telefono Azzurro ONLUS", under a memorandum of understanding with the Ministry of the Interior. It allows the reporting of cases of missing children or children in a difficult situation requiring assistance to a multilingual switchboard operator. If necessary, it is possible to involve local police offices. Furthermore, the European "Alert system for missing children" has been operational since 2013 at the International Police Co-operation Service of the Central Directorate of Criminal Police. The National Police also participates in [globalmissingkids.org](http://globalmissingkids.org), an international network dedicated to missing children run by the US-based organisation International Centre for Missing and Exploited Children.

**281. GRETA notes the efforts made by Italy in the area of international co-operation and considers that the Italian authorities should further develop international co-operation in the investigation and prosecution of transnational cases of human trafficking, including through envisaging the setting up of JITs when appropriate, to explore further possibilities for co-operation with governmental and non-governmental actors in the main countries of origin of trafficking victims, and to pursue co-operation in the area of family reunification.**

**b. Co-operation with civil society (Article 35)**

282. The Italian authorities have established over the years close partnerships with civil society organisations. While the important role of NGOs in the fight against THB is highlighted in the National Action Plan against THB, GRETA notes that civil society organisations are not members of the Steering Committee set up under the National Action Plan (see paragraph 30). At the same time, GRETA welcomes the involvement of NGOs and trade unions in the working groups. GRETA stresses the importance of involving NGOs as equal partners in the planning, implementation and assessment of anti-trafficking measures.

283. The provision of assistance to victims of trafficking is implemented by NGOs which are selected through a call for tender of the Department of Equal Opportunities. Projects under the single assistance programme currently run for 15 months and NGOs have to apply for a new call for tender to be able to continue the projects. Given that most NGOs implementing assistance projects are small associations, it is difficult for them to work on the basis of 15-monthly projects in a sustainable manner.

284. GRETA welcomes the fact that civil society organisations which are experienced in anti-trafficking activities are involved in the identification process of victims of trafficking among asylum seekers, which reinforces the multidisciplinary approach in victim identification. However, GRETA is concerned that this has not been accompanied by an increase in the resources provided to these organisations. This complicates their work because they have to interview high number of potential victims referred to them without additional capacities.

285. The adoption of a Code of Conduct for NGOs undertaking activities in migrants' rescue operations at sea has raised concerns that search and rescue operations, and assistance activities of NGOs operating in the Mediterranean Sea, may now be at risk. UNICEF has expressed concern that limiting the possibility of rescue at sea may increase the risks faced by children, including of forced returns to Libya.<sup>111</sup> GRETA also refers to the concerns raised by the UN Special Rapporteur on trafficking in persons, especially women and children, at the restrictions placed on activities of NGOs in the Mediterranean Sea, which, she states, is harmful for the protection of migrants.<sup>112</sup> Further, GRETA refers to Resolution 2229 (2018) of the Parliamentary Assembly of the Council of Europe which calls on member States to allow commercial and non-governmental ships to enter ports of coastal States, and assist those ships in their rescue operations.<sup>113</sup> GRETA is concerned by the potential impact on the identification of victims of THB of the new law on international protection, immigration and public security.

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<sup>111</sup> [https://www.unicef.org/media/media\\_96643.html](https://www.unicef.org/media/media_96643.html)

<sup>112</sup> UN Human Rights Council, Thirty-eighth session, Report of the Special Rapporteur on trafficking in persons, especially women and children, A/HRC/38/45, 14 May 2018, pp. 5-6, available at: <http://www.gla.gov.uk/media/3588/un-report-on-trafficking-and-human-rights.pdf>

<sup>113</sup> PACE, Resolution 2229 (2018), available at: <http://assembly.coe.int/nw/xml/XRef/Xref-DocDetails-en.asp?FileID=24964&lang=en>

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286. **GRETA urges the Italian authorities to review the Code of Conduct for NGOs undertaking activities on migrants' rescue operations at sea with a view to enabling the identification of victims of trafficking amongst migrants and refugees at sea and in ports.**

287. **Further, GRETA considers that the Italian authorities should continue building strategic partnerships with NGOs and trade unions, through involving them in the planning, monitoring and evaluation of anti-trafficking action, the victim identification process, the provision of assistance to victims of trafficking, and the long-term reintegration and rehabilitation of victims of THB, including by ensuring long-term funding for anti-trafficking activities of NGOs.**

## IV. Conclusions

288. Since the adoption of GRETA's first report on Italy in July 2014, progress has been made in some areas.

289. The Italian authorities have further developed the legal framework for combating trafficking in human beings and have adopted legislation strengthening the protection of unaccompanied children, including child victims of trafficking.

290. A positive development is the adoption of the first National Action Plan against Trafficking in, and Serious Exploitation of, Human Beings in February 2016, which is comprehensive in nature and pays particular attention to improving knowledge on human trafficking, strengthening prevention in countries of origin and combating trafficking for the purpose of labour exploitation

291. The institutional framework for combating human trafficking has also evolved, with the setting up of the Steering Committee, an inter-institutional forum for planning, implementation and financing of measures to combat human trafficking.

292. Efforts have also been made to provide training on human trafficking to an increasing range of relevant professionals, following a multi-agency approach, and with the active involvement of international organisations.

293. A National Referral Mechanism for the identification and referral to assistance of victims of trafficking has been drafted as part of the National Action Plan, but remains to be implemented. GRETA welcomes the adoption of Guidelines for the identification of victims of trafficking among applicants for international protection.

294. Progress has also been made in the area of assistance to victims of trafficking. The setting up of the "Single programme for the emergence, assistance and social integration of victims of trafficking and exploitation", replacing the previous dual assistance approach based on short-term and long-term projects, has resulted in extending the funding of victim assistance projects to 15 months. Further, GRETA welcomes the considerable increase in the budgetary funding allocated to anti-trafficking projects, the increase in the number of accommodation places for victims of trafficking, and the setting up of more reception centres for unaccompanied children.

295. Another positive development is the increase in the number of persons granted some form of international protection on the grounds of having been trafficked.

296. GRETA also commends the specialisation of law enforcement officers and prosecutors to deal with human trafficking cases, as well as Italy's engagement in international co-operation against human trafficking.

297. However, despite the progress achieved, some issues continued to give rise to concern. In this report, GRETA requests the Italian authorities to take further action in a number of areas. The position of the recommendations in the text of the report is shown in parentheses.

**Issues for immediate action**

- **For the purpose of preparing, monitoring and evaluating anti-trafficking policies, GRETA urges the Italian authorities to develop and maintain a comprehensive and coherent statistical system on trafficking in human beings by compiling reliable statistical data on measures to protect and promote the rights of victims as well as on the investigation, prosecution and adjudication of human trafficking cases. Statistics regarding victims should be collected from all main actors and allow disaggregation concerning sex, age, type of exploitation, country of origin and/or destination. 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 (paragraph 63);**
- **GRETA urges the Italian authorities to intensify their efforts to prevent THB for the purpose of labour exploitation, in particular by:**
  - **training labour inspectors throughout the country, as well as other inspecting agencies, law enforcement officers, prosecutors and judges, on combating THB for the purpose of labour exploitation and the rights of victims;**
  - **expanding the capacity of labour inspectors so that they can be actively engaged in the prevention of THB, including in private households and in small businesses in the hotel, catering and restaurant sectors;**
  - **monitoring the frequency and effectiveness of labour inspections and ensuring that sufficient human and financial resources are made available to labour inspectors to fulfil their mandate, including in remote locations at risk of THB in the agricultural sector;**
  - **separating immigration enforcement functions from labour inspectorate roles and ensuring that labour inspectors prioritise the detection of persons working in irregular situations who are vulnerable to THB;**
  - **reviewing the regulatory systems concerning migrants working as home care workers and ensuring that inspections can take place in private households with a view to preventing abuse of domestic workers and detecting cases of human trafficking;**
  - **strengthening the monitoring of recruitment and temporary work agencies and reviewing the legislative framework for any gaps that may limit protection or preventive measures;**
  - **supporting ethical trading initiatives, and effective enforcement of due diligence obligations to monitor supply chains, particularly in the fruit and vegetable sectors;**
  - **raising awareness amongst the general public as well as, in a targeted manner, amongst migrant workers, about the risks of THB for the purpose of labour exploitation.**
  - **establishing effective mechanisms to allow irregularly present migrant workers to lodge complaints in respect of labour standards against employers and obtain effective remedies without the risk of the sharing of their personal data or other information with immigration authorities for the purposes of immigration control and enforcement (paragraph 101);**

- **GRETA urges the Italian authorities to:**
  - **strengthen their efforts to prevent trafficking in children for different types of exploitation by raising public awareness about the risks and different manifestations of child trafficking (including early, child and forced marriages, exploitation of begging and forced criminality);**
  - **sensitise and train teachers, educational staff and child welfare professionals across the country about THB and its different forms, and ensuring that sensitisation programmes on the matter of THB are put in place in schools;**
  - **mainstream the prevention of trafficking in the training of all staff working with unaccompanied and separated children, ensuring the best interests of the child;**
  - **prevent unaccompanied or separated children from going missing and ensure that they can benefit from protection of their rights and effective care arrangements, including safe and specialised accommodation, access to education and health care, so that they are not exposed to risks of trafficking;**
  - **take action to address situations of violence of unaccompanied and separated children at the Italian/French border, including through international cooperation and positive measures to prevent trafficking, identification of possible child victims of trafficking at the borders, effective access to assistance and protection and timely appointment of guardians (paragraph 119);**
- **GRETA urges the Italian authorities to take further steps to improve the proactive identification of victims of THB, and in particular to:**
  - **strengthen the multi-agency involvement in victim identification by introducing into practice a National Referral Mechanism which defines the procedures and roles of all frontline actors who may come into contact with victims of trafficking, and providing guidance and training on its application to all relevant professionals;**
  - **increase efforts to proactively identify victims of trafficking for the purpose of labour exploitation, by reinforcing the capacity and training of labour inspectors and other relevant agencies and involving trade unions and NGOs;**
  - **take steps to proactively identify victims of trafficking for other forms of exploitation, such as forced criminality, forced begging, forced marriage and organ removal;**
  - **provide NGOs involved in the identification of victims of trafficking amongst asylum seekers with sufficient resources to enable them to fulfil the task and enable effective co-operation with NGOs, including those engaged in rescue at sea operations;**
  - **ensure identification of possible victims of THB at all border crossings in accordance with the OHCHR's Recommended Principles and Guidelines on Human Rights at International Borders (paragraph 158);**
- **GRETA urges the Italian authorities to ensure the availability of dedicated centres for asylum seekers who are presumed victims of trafficking (paragraph 173);**
- **GRETA urges the Italian authorities to:**
  - **adopt as a matter of priority a National Referral Mechanism for child victims of THB which takes into account the special circumstances and needs of child victims, involves child specialists and ensures that the best interests of the child are the primary consideration in all proceedings relating to child victims of THB and children at risk;**



- ensure that relevant actors take a proactive approach and increase their outreach work to identify child victims of THB for different forms of exploitation, by paying particular attention to unaccompanied and separated children and children from Roma communities;
- ensure that child victims of THB across the country, regardless of whether they seek asylum or not, benefit from the assistance measures provided for under the Convention, including appropriate accommodation, effective access to free legal assistance and psychological support;
- take further steps to address the problem of children going missing while in the care of the State and ensure that there are clear instructions as to which institution holds the lead responsibility for tracing missing children and for taking appropriate measures to notify all relevant authorities in order to ensure that children are traced and provided with appropriate protection;
- monitor the effectiveness and quality of the voluntary guardianship system;
- ensure long-term assistance for the integration of child victims of trafficking. (paragraph 189);
- GRETA once again urges the Italian authorities to review the legislation in order to ensure that the recovery and reflection period is specifically defined in law as provided for in Article 13 of the Convention, and that all possible foreign victims of trafficking are offered a recovery and reflection period and all the measures of assistance envisaged in Article 12, paragraphs 1 and 2, of the Convention during this period (paragraph 195);
- GRETA is concerned by the failure to implement Article 15 of the Convention and once again urges the Italian authorities to take steps to facilitate and guarantee access to compensation to victims of THB, and in particular to:
  - review the criminal and civil procedures regarding compensation from perpetrators with a view to improving their effectiveness;
  - enable victims of trafficking to exercise their right to compensation, by informing them, in a language they can understand, of the right to compensation and the procedures to be followed, and building the capacity of legal practitioners to support victims to claim compensation;
  - include victim compensation in training programmes for law enforcement officials, prosecutors and judges;
  - enable victims of trafficking who have left Italy to benefit from the possibility of claiming compensation;
  - set up a State compensation scheme effectively accessible to victims of THB, regardless of their nationality and immigration status, and review the maximum amount of 1 500 euros of compensation paid by the State in order to ensure that it corresponds to the actual harm suffered by victims;
  - make full use of the existing legislation on the freezing and forfeiture of assets to secure compensation to victims of trafficking (paragraph 210);
- GRETA urges the Italian authorities to continue to take steps to ensure that the return of victims of THB is conducted with due regard to their rights, safety and dignity, including the right to non-*refoulement* (Article 40(4) of the Convention), and in the case of children, by fully respecting the principle of the best interests of the child. Recalling the judgment of the European Court of Human Rights in *Hirsi Jamaa and others v. Italy*, GRETA urges the Italian authorities to ensure that individualised assessments of risk are undertaken in all cases prior to any forced returns or expulsions, including during operations in Libyan territorial waters. In this context,

**the authorities should continue to develop co-operation with countries of origin and transit of victims in order to ensure comprehensive risk and security assessment (Article 16(7) of the Convention) and safe return of the victims, as well as their effective reintegration on return. Full consideration should be given to the UNHCR's Guidelines on the application of the Refugees Convention to trafficked persons (paragraph 223);**

- **GRETA once again urges the Italian 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 if an accused person is a potential victim of trafficking and to consider trafficking in human beings as a serious violation of human rights. While the identification procedure is on-going, potential victims of trafficking should not be punished for immigration-related offences (paragraph 239);**
- **GRETA urges the Italian authorities to take measures to ensure that THB offences are investigated and prosecuted effectively, leading to proportionate and dissuasive sanctions (paragraph 259);**
- **GRETA urges the Italian authorities to review the Code of Conduct for NGOs undertaking activities on migrants' rescue operations at sea with a view to enabling the identification of victims of trafficking amongst migrants and refugees at sea and in ports (paragraph 286).**

#### Further conclusions

- GRETA considers that the Italian authorities should strengthen the co-ordination of anti-trafficking action by setting up a dedicated national co-ordination structure which is appropriately staffed and has the mandate and authority to bring together the anti-trafficking work of relevant ministries and agencies, as well as by further involving NGOs, trade unions and other members of civil society in the development, implementation and evaluation of anti-trafficking policy, through the Steering Committee and its working groups (paragraph 33);
- GRETA considers that the Italian authorities should examine the possibility of establishing an independent National Rapporteur or designating as a National Rapporteur another independent mechanism with a view to ensuring an effective monitoring of the anti-trafficking activities of State institutions and making recommendations to persons and institutions concerned (see Article 29, paragraph 4, of the Convention and paragraph 298 of the Explanatory Report) (paragraph 34);
- GRETA considers that the Italian authorities should commission an independent evaluation of the implementation of the National Action Plan and use the results for preparing the second National Action Plan on action against THB, in consultation between all relevant stakeholders, including civil society (paragraph 37);
- GRETA considers that the Italian authorities should ensure that training programmes are organised in a systematic and harmonised way across Italy for all relevant officials, in particular law enforcement officials, border police staff, front-line professionals working at points of disembarkation and first reception of migrants and asylum seekers, prosecutors, judges, asylum officials, social workers, labour inspectors, lawyers, child specialists and health care professionals. The relevance, effectiveness and reach of these programmes should be evaluated at regular intervals (paragraph 58);

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- GRETA considers that the Italian authorities should further conduct and support research on THB-related issues as an important source of information on the impact of current policies as well as a basis for future measures. Areas where further research is needed, in order to shed more light on the extent of the problem of THB in Italy, include internal trafficking and trafficking for the purpose of labour exploitation in sectors other than agriculture (e.g. domestic and care work) (paragraph 71);
  - GRETA considers that the Italian authorities should further develop awareness-raising activities at national level aimed at preventing human trafficking for different forms of exploitation. The Italian authorities should involve migrant communities in designing and implementing awareness-raising actions, and plan future information and awareness-raising campaigns on the basis of previous research and impact assessment (paragraph 78);
  - GRETA invites the Italian authorities to consider measures to expand legal routes to migration as an effective measure to reduce vulnerability to trafficking (paragraph 102);
  - GRETA considers that the Italian authorities should make further efforts to:
    - combat statelessness among Roma, Sinti and Camminanti children, particularly children of single parents, and ensure access to quality education for children of Roma, Sinti and Camminanti communities;
    - integrate the prevention of THB in training on online safety (paragraph 120);
  - GRETA encourages Italy to ratify the Council of Europe Convention against Trafficking in Human Organs as this could contribute to preventing trafficking for the purpose of organ removal (paragraph 122);
  - GRETA considers that the Italian authorities should ensure that health professionals involved in the transplantation of organs and other relevant professionals are made aware of the indicators of trafficking for the purpose of organ removal and are given instructions how to deal with such cases (paragraph 129);
  - GRETA considers that the Italian authorities should adopt and strengthen legislative, administrative, educational, social, cultural or other measures to discourage demand for the services of trafficked persons, for all forms of exploitation, in partnership with civil society, trade unions and the media, including by:
    - implementing educational programmes at schools which stress the importance of gender equality and respect for the dignity and integrity of every human being and the consequences of gender-based discrimination;
    - highlighting the risks of trafficking and other forms of sexual and gender-based violence linked to prostitution, and strengthening awareness-raising campaigns of such risks, targeted at men and boys in particular;
    - raising awareness of the important role of the media and advertising in tackling demand which leads to human trafficking;
    - setting up programmes supporting persons who want to leave prostitution;
    - supporting ethical trading initiatives particularly in the agricultural sector;
    - working closely with trade unions, civil society and the private sector to raise awareness of trafficking for the purpose of labour exploitation, prevent trafficking in supply chains and strengthen corporate social responsibility, drawing on the Guiding Principles on Business and Human Rights and Recommendation CM/Rec(2016)3 on human rights and business (paragraph 137);
  - GRETA considers that the Italian authorities should continue their efforts to detect and prevent THB through border control measures. This should include:

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- steps to build the capacity of all competent authorities to detect indicators of THB among persons arriving in Italy and ensure prompt and effective access to assistance and protection;
  - taking further measures through Operation "Themis" to ensure early identification and referral to assistance of victims of trafficking among migrants and refugees at sea;
  - providing information to foreign nationals seeking asylum or arriving irregularly, in a language that they can understand, about the risks of THB, their rights and where to receive advice and legal assistance. In this context, GRETA refers to the United Nations Office of the High Commissioner for Human Rights (OHCHR) 2014 Recommended Principles and Guidelines on Human Rights at International Borders;
  - proactive measures at all borders (including at sea) to comply with the positive obligations under the Convention to prevent trafficking in human beings and protect the human rights of victims of trafficking (paragraph 141);
  - GRETA considers that the Italian authorities should:
    - evaluate the funding needs of victim assistance programmes and adapt the respective resources, ensuring that there are sufficient accommodation places for female and male victims of THB;
    - adapt the length of assistance programmes to the individual needs and vulnerability of victims to enable their rehabilitation and integration (paragraph 174);
  - GRETA considers that the Italian authorities should continue making efforts to ensure that victims of trafficking, regardless of the form of exploitation, can fully benefit in practice from the right to obtain a renewable residence permit for their personal situation or for co-operating with the authorities, without prejudice for the right to seek and enjoy asylum. In this context, GRETA refers to the UNHCR 2006 Guidelines on the application of the Refugees Convention to trafficked persons (paragraph 201);
  - GRETA is concerned by the failure to implement Article 15 of the Convention and once again urges the Italian authorities to take steps to facilitate and guarantee access to compensation to victims of THB, and in particular to:
    - review the criminal and civil procedures regarding compensation from perpetrators with a view to improving their effectiveness;
    - enable victims of trafficking to exercise their right to compensation, by informing them, in a language they can understand, of the right to compensation and the procedures to be followed, and building the capacity of legal practitioners to support victims to claim compensation;
    - include victim compensation in the training programmes for law enforcement officials, prosecutors and judges;
    - enable victims of trafficking who have left Italy to benefit from the possibility of claiming compensation;
    - set up a State compensation scheme effectively accessible to victims of THB, regardless of their nationality and immigration status, and review the maximum amount of 1 500 euros of compensation paid by the State in order to ensure that it corresponds to the actual harm suffered by victims;
    - make full use of the existing legislation on the freezing and forfeiture of assets to secure compensation to victims of trafficking (paragraph 210);
  - In order to be fully consistent with the definition of THB in the Convention, GRETA considers that the Italian authorities should ensure that "receipt" as one of the actions and "abduction" as one of the means for committing THB are appropriately taken into account in practice (paragraph 225);

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- GRETA considers that the Italian authorities should take steps to state explicitly in law the irrelevance of the consent of a victim of trafficking to the intended exploitation (paragraph 226);
  - GRETA considers that the Italian authorities should adopt legislative measures to criminalise the use of services with the knowledge that the person is a victim of THB, as stipulated by Article 19 of the Convention (paragraph 232);
  - GRETA invites the Italian authorities to keep under review the application of the legal provisions concerning corporate liability for THB with a view to ensuring that the sanctions or measures are effective, proportionate and dissuasive (paragraph 234);
  - GRETA considers that the Italian authorities should continue to take measures to:
    - improve the knowledge of investigators, prosecutors and judges about the seriousness of THB, the severe impact of exploitation on the victims and the need to respect their human rights;
    - strengthen efforts to investigate and prosecute cases of trafficking for the purpose of labour exploitation, as well as for other forms of THB other than sexual, for example forced begging and forced criminality;
    - systematically carry out financial investigations in order to locate, seize and confiscate the assets of the perpetrators (paragraph 260);
  - GRETA considers that the Italian authorities should ensure that the existing provisions on the protection of victims and witnesses are effectively applied to protect victims and witnesses of THB at the investigation, trial and post-trial stages, in particular by securing budgetary resources to cover the costs of protecting victims/witnesses of THB collaborating with the authorities, including their relocation for security reasons (paragraph 266);
  - GRETA considers that the Italian authorities should continue building strategic partnerships with NGOs and trade unions, through involving them in the planning, monitoring and evaluation of anti-trafficking action, the victim identification process, the provision of assistance to victims of trafficking, and the long-term reintegration and rehabilitation of victims of THB, including by ensuring long-term funding for anti-trafficking activities of NGOs (paragraph 287).

## Appendix

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

#### **Public bodies**

- Department for Equal Opportunities of the Italian Presidency of the Council of Ministers
- Ministry of the Interior
- Ministry of Justice
- Ministry of Foreign Affairs and International Cooperation
- Ministry of Labour and Social Policies
- Ministry of Agricultural, Food and Forestry Policies
- Ministry of Health
- State Police
- *Guardia di Finanza* (Financial Police)
- Carabinieri Corps
- National Anti-Mafia and Anti-Terrorist Directorate (DNA)
- National Association of Italian Municipalities
- National Commission for the Right to Asylum
- Territorial Commission for Recognition of International Protection in Rome
- National Statistical Institute (ISTAT)
- Italian Ombudsperson for Children and Adolescents

#### *Province of Catania*

- Municipalities of Catania, Comiso, Pozzallo and Ragusa
- Provincial Health Authorities in Catania and Ragusa
- Prefectures of Catania and Ragusa
- Police Headquarters (*Questura*) of Catania and Ragusa
- Public Prosecutor's Offices in Catania and Ragusa
- Juvenile Court in Catania
- Juvenile Prosecutor's Office in Catania
- Provincial Labour Office in Ragusa
- Territorial Commissions for Recognition of International Protection in Catania, Ragusa and Siracusa

#### *Province of Pisa*

- Provincial Health Authority of Pisa
- Police Headquarters (*Questura*) of Pisa
- Provincial Carabinieri Command of Pisa

**Intergovernmental organisations**

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

**NGOs and other civil society organisations**

- Arnera
- Associazione Antigone
- Associazione Diritti e Frontiere
- Associazione L'Altro Diritto
- Associazione Randi
- ASGI (association of lawyers specialised in immigration issues)
- BeFree Cooperativa sociale
- Caritas
- Ce.I.S. - Gruppo "Giovani e Comunità"
- Co-ordinating National Community of Hospitality network (CNCA)
- Dedalus Cooperativa sociale
- Diocese of Pistoia
- Donne in Movimento
- FLAI CGIL (trade union for workers in the agricultural/industrial sector) office in Ragusa
- Law clinic University of Roma 3
- On the Road Onlus
- Parsec Cooperativa sociale
- Penelope Cooperativa Sociale
- Physicians for Human Rights (MEDU)
- Pronto Donna
- Proxima Cooperativa sociale
- Save the children

## **Government's comments**

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

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

The Convention requires that "the report and conclusions of GRETA shall be made public as from their adoption, together with eventual comments by the Party concerned." GRETA transmitted its final report to the authorities on 21 December 2018 and invited them to submit any final comments. The comments of the authorities, submitted on 21 January 2019, are reproduced hereafter.





*Presidenza del Consiglio dei Ministri  
Dipartimento per le pari opportunità*

Ufficio per gli affari generali, internazionali  
e gli interventi in campo sociale  
IL DIRETTORE

Presidenza del Consiglio dei Ministri  
DPO 0000344 P-4.25  
del 21/01/2019



22073203

Rome, January 21<sup>st</sup>, 2019,

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

Dear Madame Executive Secretary, Ms. Nestorova,

With reference to your letter dated December 14, 2018, I take this opportunity to thank you and the Group of Experts on Action against Trafficking in Human Beings (GRETA), on behalf of Italian Government, for the Report concerning the implementation of the Council of Europe Convention (Second evaluation round) and for your kind indications about final comments, by January 21, 2019.

In this regard, please find attached some comments which can contribute to an even more precise evaluation of the Italian situation.

I also take this opportunity to reiterate that Italian Government attaches the utmost importance to GRETA and our constructive dialogue and that we have taken into full consideration all the recommendations (“urges”), requests for information, and invitations contained in the Report under reference.

Against this background, a working group focused on how to promptly match GRETA’s recommendations will be set up in the forthcoming days.

Furthermore, I’m pleased to inform you that the evaluation of the implementation of the National Action Plan 2016-2018 will be carried out during 2019, as it is foreseen in the annual strategic planning of the Department for equal opportunities.

I therefore remain at your full disposal for additional information or any other questions.

Yours sincerely,

Laura Menicucci  
Director General

**ANNEX 1**  
**COMMENTS ON THE FINAL REPORT CONCERNING THE**  
**IMPLEMENTATION OF THE CONVENTION ON ACTION AGAINST**  
**TRAFFICKING IN HUMAN BEINGS BY ITALY**  
**(SECOND EVALUATION ROUND)**

With regard to the issue of “Caporalato”, Article 25 *quater* of Law-Decree No. 119/2018 as converted into law by Act No. 136/2018 envisages the establishment of an “Operational Table for the definition of a new Strategy to combat Caporalato and labour exploitation in the agricultural sector (Tavolo operativo per la definizione di una nuova strategia di contrasto al caporalato e allo sfruttamento lavorativo in agricoltura)”, in order to promote the planning of an effective strategy as concerted among all relevant institutional stakeholders, to fight Caporalato and relating labour exploitation.

This Table, chaired by the Minister of Labour and Social Policies or one of his representatives upon his delegation, consists of representatives from the following Administrations: Ministry of Interior; Ministry of Justice; Ministry of Agricultural, Food, Forests and Tourism Policies; Ministry of Infrastructures and Transportation; ANPAL; National Labour Inspectorate (acronym in Italian, INL); INPS; Carabinieri Corps; Guardia di Finanza; Regions and Autonomous Provinces of Trento and Bolzano; National Association of Italian Municipalities (acronym in Italian, ANCI). Representatives of employers and employees sectors may participate in the above Working Group, as well as organizations from the Third Sector. The Table hold its first meeting on December 18.

From the meetings of the above Table, the following six macro-areas have been determined as areas for intervention on which to concentrate, on a priority basis, the action of all the competent institutional stakeholders, so as to define a three-year Plan of Action to prevent and combat this phenomenon: Prevention, controls, and repression of Caporalato; job brokering and valuing the Job Centres; Transportation; Accommodation; Eviction of informal settlements; Network of quality agricultural labour.

With regard to data concerning untraceable unaccompanied minors, provided for by the Ministry of Labour, this is the result of a cumulative six-monthly monitoring reporting (see Para.110 of the Report under reference) and refers to the overall number of foreign minors as reported from the competent Authorities when they go away/depart: this departure is reported into the SIM system up to their coming of age or up to the possible tracing of the minor (SIM stands for national informational system about unaccompanied minors).

The project, entitled “Percorsi (Pathways)”, carried out by the Ministry of Labour (Para. 115 of the Report) was concluded with 1,603 traineeships (in lieu of 603, as

mentioned in the Report) - whereas 1,797 were the pathways initially launched.

With regard to Paras.85, 101 (former Para.95 of the Report) concerning the hope of the broadening of the power of access of labour inspectors, it is to be reiterated, with regard to the access to private houses, that “The access to these places, in accordance with Article 8 of Presidential Decree No. 520/1995 is not expressly prohibited when there is a founded suspect that these places are used to conflict with law or to hide something in conflict with law”. Moreover, inspections of other (mentioned) labour places (small enterprises, hotels, catering and food companies) are the subject of the planning and performance of supervisory/control activity.

Within the framework of Para.101, it is important to recall the informational, promotional and prevention-oriented activity carried out by the inspectors, in accordance with Articles 7, lett. C, and 8, of Legislative Decree No. 124/2004, with regard to the need of increasing public awareness about trafficking in human beings<sup>1</sup>.

Last, with regard to the need of involving inspectors in training-related activities, one labour inspector as a trainee and two more INL inspectors as observers participated in the new edition of the OSCE Training on Trafficking in Human Beings (Para. 43, former Para. 40 of the Report) at CoESPU in Vicenza, with the participation of representatives from 30 States. This was a simulation involving differing Authorities, with the aim of stopping the trafficking of migrants, victims of sexual or labour exploitation, by a multi-agency approach: a simulation being focused on the development of synergies between investigative activities of an inspection, police, and financing nature; and characterized by the participation of operators also to increase cultural exchange.

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With regard to Para.225 of the Report, mention has to be made of the following:

As for the inclusion of the term "receipt" in the formulation of Art.601 of the criminal code, it is to be noted that the aforementioned term is translated into Italian with the term "hospitality" or in any case "reception".

It is deemed that the transposition of the English term, "receipt" in the above Article

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<sup>1</sup> From the previous contribution: “In relation to the need to raise awareness on the issue of trafficking in human beings, particular attention must be paid to the informative, promotional and preventive activities carried out by the inspection staff pursuant to Arts. 7, lett. c) and 8 of Legislative Decree no. 124/2004. The inspector is, in fact, required not only to carry out checks in the fields of work, social security and insurance but also to provide, with the purpose of preventing the offenses, all the clarifications required regarding the application of the current legislation. In this regard, it should be noted that - during 2017 and the first half of 2018 - the territorial Offices have carried out several informative meetings aimed at the stakeholders of the labor market (trade unions and employers' organizations, professional associations ...) concerning the issues on the illegal recruitment (the so-called *caporalato*) and labor exploitation”.

601 has been carried out in compliance with the provisions of EU Directive 2011/36 and also with the Convention.

In fact, the notion of hospitality, as reported in the Italian law, lends itself to hermeneutics, to include a plurality of behaviors (such as, for example, the one of whom hosting or welcoming at his/her house a person, victim of trafficking, even if only for the purposes of transferring the victim under the dominion of others).

The new Art.601 of the criminal code, taking up the definition contained in Art.2 of the Directive, has widened the scope of the conduct, now identifying expressly the conducts of trafficking - unlike the previous provision that generically indicated the conduct of "trafficking".

The law no longer punishes 'transportation' or transport across national borders, but also the fact of recruiting, 'moving' on the national territory, ceding or hosting the victim of the crime.

Furthermore, our legal system can count on the presence of a rule, Article 110 of the criminal code, which allows an extension of the punishment to those who have carried out an atypical conduct (namely not specifically typified and attributable to the offense) suitable to facilitate, in any forms, even by way of moral cooperation, the conduct of the offender. Consequently, the distinction that remains between the provision of the Directive and the internal legislative translation is merely terminological and does not result in a limitation of the conduct punishable in the sense indicated by the Directive under reference.

As for the opportunity to envisage the conduct of "Abduction" or to dedicate an explicit provision to this term, it must be noted that it corresponds to the Italian "kidnapping" (*rapimento*).

This type of crime is expressly foreseen and punished in Italian law, by Art.605 of the criminal code (and in addition to Article 630 of the Criminal Code, when the kidnapping is committed for the purposes of extortion), also jointly with the conducts referred to in Art.601 of the penal code.

In this regard, the Supreme Court of Cassation has specified that for the implementation of the offenses referred to in Articles 600 and 601 of the criminal code, there is no need for a total deprivation of the person's liberty, since a significant impairment of the self-determination capacity is sufficient (*ex plurimis*: Court of Cassation, criminal section V, No. 49594/2014). So, although the kidnapping may represent a typical conduct by which the crime of trafficking can occur, it is not required that it is to be committed in its complete/final form - in order to configure and consider the crime of trafficking realized.

Moreover, already in 2008, by Ruling No. 23368, the Court of Cassation (Section V) has specified that for the purposes of the configuration of the offense of trafficking in persons it is not necessary that the crime of enslavement be configured, as it is sufficient the intention to bring people into Italy to commit this last offense ( "for the purposes of the consumption of the crime of trafficking in persons, with regard to the second hypothesis provided for by Article 601, first paragraph, of the Italian criminal code, it is not even necessary that the crime of enslavement be also consumed, as envisaged from the aforementioned provision - with this reference it was intended only by the legislator to establish the necessity of the specific intention (*dolo specifico*) from which the author's conduct must be accompanied ".

It follows, therefore, that a possible consent of the victim would be completely irrelevant for the purposes of exclusion of criminal liability (Article 50 of the penal code), since this is one of the unavailable rights of the person – for which the consent is not relevant.

In the current formulation of Art.601 of the criminal code - as is the case with the previous ones -, there is not an express reference about the irrelevance of the consent of the victim, as considered superfluous in our system whereby very personal goods (*beni personalissimi*), such as the one to dignity and personal freedom, are deemed unavailable.

By releasing a verdict on Art. 600 of the penal code, the Court of Cassation recently affirmed that in none of the cases provided for by the law in question (where the author must alternatively resort to either violence or deception, or to take advantage of a state of inferiority or a situation of necessity or promises of advantages to those who exercise authority over the person) could be of relevance the consent of victim as a way to exclude penal relevance of the conduct under reference, as long as the position of the passive subject of the conduct is always described by the law as referring to physical or psychological condition in which the willingness-related processes are absolutely altered and consent will be treated as flawed.

Elsewhere, this Court has ruled that a person, "who is not affected by particular mental disorders" may consent to his/her own reification and, even if a consent is given, "would not have any legal significance, and certainly not it would be excluding the criminal nature of the conduct by the "slaver", given the unavailability of the good of personal freedom, whatever the culture of the subjects involved".

With regard to International Cooperation section of the Report (Arts.32-33), mention has to be made of the following:

Italy has made a lot of progress in the field of bilateral agreements on criminal judicial cooperation with results far exceeding the expectations.

The Ministry of Justice has in fact concentrated its commitment above all on negotiations with some countries deemed to be of particular interest to Italy, based mainly on infiltration and the presence of serious forms of crime, including trafficking, and the quality of the bilateral cooperation in the absence of agreements, respectively.

In this regard, it is worth-mentioning that from November 20 through November 23, 2018, we took part in the eighth plenary assembly of the WACAP (West African Network of Central Authorities and Prosecutors), in Benin, during which it was signed between the Italy and the ECOWAS Member States a partnership agreement on international judicial cooperation in criminal matters of considerable importance. States such as Senegal, Mali, Gambia, Guinea, Guinea-Bissau, Ivory Coast, Ghana, Nigeria and Niger are part of this judicial network - all countries of strategic importance for Italy, in relation to the strong migratory flows that see them as countries of origin and / or transit.

In February 2019, bilateral negotiations will begin for the adoption with Niger, of judicial assistance and extradition agreements, with the provision also of the possible use of JIT's (Joint investigation teams) whenever this is deemed necessary.

The provision of the creation of JIT's is also always included in the most recent agreements on cooperation negotiated and signed by Italy.

Italy has also always followed-up and given effect to all the requests for judicial assistance brought about by the International Criminal Court, on trafficking and crimes against humanity.

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The number of residence permits issued under Article 18 D.Lgs. n. 286/98 for humanitarian reasons was 270 in 2018, including 1 for labour exploitation (until November 30<sup>th</sup>) (see Para.199 of the Report under reference).

The number of residence permits issued under Article 22 subsection 12 *quater* D.Lgs. n. 286/98 for labour exploitation was 8 in 2013, 8 in 2014, 9 in 2015, 7 in 2016, 4 in 2017, 2 in 2018 (until November 30<sup>th</sup>) (see Para.200 of the Report under reference).

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The commitment of the Police Forces in the field of training the personnel engaged in investigations on human trafficking is continuous. In addition to participating to the OSCE Seminar mentioned at n. 43 of the Report, specialized operators of the Police Forces attended, between December 10th to 14th 2018, the fourth international training course which was held within the OSCE project "Struggle trafficking in human beings along migratory routes", at the Center of Excellence for the Stability Police Units (CoESPU) in Vicenza, aimed at strengthening the ability to contrast the phenomenon, with specific reference to sexual and labor exploitation ,

with the usual methods of "simulation" of operating procedures. ) (see Para. 43 of the Report under reference).

According to the data enclosed in the XIX Report of the Government Commissioner for missing persons (1<sup>st</sup> semester 2018)<sup>2</sup> concerning the departure of minors from the reception centers, there are still 9.718 minors to be found, of which **9.258** are foreigners and 460 Italians.

In addition, the latest monthly report MSNA unaccompanied minors in Italy, published by the Ministry of Labour and Social Policies - Directorate General for Immigration and Integration Polices (November 2018) <sup>3</sup> - quote 5.314 unaccompanied minors for which it has been filed a departure from the reception centers (the number includes the total minors departure over the years) (see Para. 110 of the Report under reference).

About Investigation , prosecution and procedural law (Chapter III – Para. 4), impulse has been given to the sector of investigations concerning personal and financial prevention measures implemented by the Police Superintendent, provided by the anti-mafia regulation.

In this context, in 2018 the Central Anti-Crime Department carried out training seminars addressed to the Managers and to the personnel of the Anti-Crime Division of the Police Corps Headquarters engaged in the field of asset investigations, at the Police High School and at the Institute for Inspectors in Nettuno. In October 2018, they were held four training sessions at the “InfoCamere” Offices located in Padua and Rome keen to professional expert staff of the Police Headquarters, to investigate in the corporate fields.

It is worth, finally, to emphasize the positive results gain from the activities of the Police Corps in struggling trafficking of labor exploitation developed in 2018. As an example, the recent operation of the Police Corp Team of Ragusa in collaboration with the Police headquarter of Vittoria (RG), ended October 23rd 2018, after weeks of investigations and tight police checks, with the arrest of four agriculture entrepreneurs and the denounce of four of their collaborators, responsible for labor exploitation of central African workers, asylum seekers, of Romanians, of Tunisians and a small part of Italians, employees in Victoria’s greenhouses.

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<sup>2</sup> [http://www.interno.gov.it/sites/default/files/modulistica/xix\\_relazione\\_semestrale.pdf](http://www.interno.gov.it/sites/default/files/modulistica/xix_relazione_semestrale.pdf)

<sup>3</sup> <http://www.lavoro.gov.it/temi-e-priorita/immigrazione/focus-on/minori-stranieri/Documents/Report-MSNA-mese-novembre-2018-13122018.pdf>