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**THE ROLES OF NGOs IN THE  
COUNCIL OF EUROPE CONVENTION  
ON ACTION AGAINST TRAFFICKING  
IN HUMAN BEINGS**

With case studies on Austria, Italy and the United Kingdom

**Author: Judith Tutzer**  
Supervisor: Helmut Sax

## **Abstract**

This research work addresses the question of how the various roles of NGOs envisaged by the Council of Europe Convention on Action against Trafficking in Human Beings are related. It seeks to demonstrate how the potentially dichotomous roles of being a partner of the State while also critically monitoring the implementation of the Convention by the latter are interrelated, interdependent and also combinable. In order to do so, case studies on Austria, Italy and the United Kingdom are conducted. The comparative analysis reveals that the ideal way to improve action is the involvement of NGOs on the institutional level and in policy development. The inclusion of NGOs in the monitoring process conducted by GRETA is found to be most effective when using the channel of consultation with NGOs during country visits. The relationship between the two roles is proposed to be represented as a circle: working as partners of the State provides NGOs with more information to share – ideally – with the State for policy development or with GRETA. GRETA's report can then be used to put pressure on the State, also in terms of more NGO involvement, and thus bring about change and close the circle.

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# List of abbreviations

<b>Abbreviation</b>	<b>Definition</b>
AFRUCA	Africans Unite Against Child Abuse
AI	Amnesty International
ASI	Anti-Slavery International
ATMG	Anti-Trafficking Monitoring Group
AVR	Assisted Voluntary Return
BAWSO	Black Association of Women Step Out
BIM	Ludwig Boltzmann Institut für Menschenrechte (Ludwig Boltzmann Institute of Human Rights)
CAHTEH	Committee on Action against Trafficking in Human Beings
CGIL	Confederazione Generale Italiana del Lavoro (Italian General Confederation of Labour)
CISL	Confederazione Italiana Sindacato Lavoratori (Italian Confederation of Workers' Trade Unions)
CNCA	Coordinamento Nazionale Comunità di Accoglienza (Co-ordinating National Community of Hospitality Network)
CoE	Council of Europe
CP	Committee of the Parties
DEO	Department for Equal Opportunities
ECPAT	End Child Prostitution, Child Pornography and Trafficking of Children

	for Sexual Purposes
EU	European Union
GRETA	Group of Experts on Action against Trafficking in Human Beings
IDMG	Inter-Departmental Ministerial Group
IFTDH	International Federation Terre des Hommes
ILO	International Labour Organisation
LEFÖ-IBF	LEFÖ-Interventionsstelle für Betroffene von Frauenhandel (Intervention Centre for Migrant Women Affected by Human Trafficking)
LSI	La Strada International
MoU	Memorandum of Understanding
NAP	National Action Plan
NGO	Non-governmental organisation
NRM	National Referral Mechanism
SMG	Strategic Monitoring Group
TARA	Trafficking Awareness Raising Alliance
UIL	Unione Italiana del Lavoro (Italian Labour Union)
UK	United Kingdom
UKHTC	United Kingdom Human Trafficking Centre
UN	United Nations
USMI	Unione Superiore Maggiori d'Italia (Italian Union of Women Major Superiors)

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# Introduction

Human trafficking is one of the most serious violations of human rights and affects women, men and children of every nationality around the globe. According to the International Labour Organisation (ILO) estimates, 2.4 million people are being trafficked every year.<sup>1</sup> After trafficking of drugs and weapons, it constitutes the most important source of profit of criminal organisations.<sup>2</sup>

In order to respond to such a huge challenge, there have been numerous initiatives at the international, regional and national levels,<sup>3</sup> the most comprehensive instrument of which is considered to be the Council of Europe Convention on Action against Trafficking in Human Beings (hereinafter, CoE Convention), adopted in 2005.<sup>4</sup> Its article 4 defines “trafficking in human beings” as “the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services,

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<sup>1</sup> Council of Europe, Ministers’ Deputies Information documents: Council of Europe’s action to combat trafficking in human beings, CM/Inf(2008)28, 9 June 2008, available at <https://wcd.coe.int/ViewDoc.jsp?id=1303549> (consulted on 7 March 2015), p. 1.

<sup>2</sup> See United Nations News Centre, Human trafficking has no place in modern world, General Assembly President says, 14 July 2014, available at [www.un.org/apps/news/story.asp?NewsID=48271#.VUH4SSGqqko](http://www.un.org/apps/news/story.asp?NewsID=48271#.VUH4SSGqqko) (consulted on 3 April 2015).

<sup>3</sup> See, among others, the 2000 United Nations Convention against Transnational Organized Crime and the Optional Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime; the Council of the European Union Framework Decision on combating trafficking in human beings (2002/629/JHA), replaced by the Directive 2011/36/EU of the European Parliament and of the Council on preventing and combating trafficking in human beings and protecting its victims; the Council Directive 2004/81/EC on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities.

<sup>4</sup> Council of Europe Convention on Action against Trafficking in Human Beings, CETS No. 197, adopted on 3 May 2005, opened for signature on 16 May 2005 and entered into force on 1 February 2008, available at [www.coe.int/t/dghl/monitoring/trafficking/Source/PDF\\_Conv\\_197\\_Trafficking\\_Erev.pdf](http://www.coe.int/t/dghl/monitoring/trafficking/Source/PDF_Conv_197_Trafficking_Erev.pdf) (consulted on 25 February 2015).

slavery or practices similar to slavery, servitude or the removal of organs”<sup>5</sup>. As one of the Convention’s main added values, the establishment of an independent monitoring mechanism needs to be highlighted: the Group of Experts on Action against Trafficking in Human Beings (GRETA).

Apart from these actors, non-governmental organisations (NGOs) are key players in the fight against human trafficking. Given their fundamental importance, this research seeks to demonstrate how their role is envisaged by the CoE Convention, which refers to NGOs especially in two main contexts: as partners for the State to implement the provisions contained in the Convention and as sources of information in the process of monitoring the implementation by the States Parties. After a general introduction on the Convention and the role of NGOs in the field of human trafficking, these two key roles of NGOs will be examined further, analysing how they are correlated, when their concurrence is beneficial and when it may cause problems. In order to do so, the practical implementation of the Convention’s provisions referring to NGOs will be examined with regard to three State Parties to the Convention, namely Austria, Italy and the United Kingdom (UK). The choice of the countries mentioned has been made with regard to the different presence and involvement of NGOs in co-operation agreements with the State. While in Austria co-operation agreements do exist with major NGOs, NGOs in Italy co-operate mostly with local authorities. As for the UK, a national co-operative framework is in place, laying down the roles of the various actors, including NGOs. The case studies and the comparison between the different structures will be taken as a starting point for further considerations on the relationship between the two potentially dichotomous but interrelated roles of working with the government and critically monitoring its work, envisaged for NGOs in the Convention.

Very little research has been conducted on this issue, also due to the rather recent entry into force of the CoE Convention. This research is worthwhile because it can contribute to identifying possible shortcomings, highlight good practices and make recommendations. In addition, it helps to recognize the fundamental role NGOs play and the difficult position they may find themselves in in their work against human trafficking.

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<sup>5</sup> Article 4 (a) CoE Convention.

As for the methodology used in this work, doctrinal and desk research and the consultation of secondary sources will prevail for the general parts of the work. Also primary information, provided via Email by the GRETA Secretariat and by the international NGO La Strada International (LSI), will be taken into account. Furthermore, a legal analysis of the Convention's provisions and of the internal rules of procedure of GRETA will enable the setting of the framework for further considerations. An accurate screening of GRETA's evaluation reports on the implementation of the Convention by the three countries mentioned above, as well as other secondary sources such as NGO reports, will be taken as the basis for the case studies. Furthermore, a written survey in the form of a short questionnaire has been conducted among the NGOs and other non-governmental actors based in Austria, Italy and the UK that were contacted during the first evaluation round, as listed in GRETA's evaluation reports.<sup>6</sup> Out of the 46 actors contacted, only five completed the questionnaire, while others pointed to the lack of time or human resources to complete the questionnaire and others did not reply at all. Due to these difficulties encountered, the lack of replies and the short timeframe in which this research was conducted, the information provided by the NGOs that completed the questionnaire was used as information provided via Email. Once the case studies with regard to both functions of NGOs have been analysed, a comparative analysis of the NGOs' involvement in Austria, Italy and the UK will enable the drawing of conclusions on the correlation between the two key roles the CoE Convention envisages for NGOs in the field of human trafficking.

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<sup>6</sup> For the report on Austria, the NGOs and other non-governmental actors contacted were ECPAT – Austria, EXIT, LEFÖ-IBF and the Ludwig Boltzmann Institute of Human Rights; for Italy, Amnesty International Italy, the association of lawyers specialized in immigration issues (ASGI), the Associazione Micaela Onlus, Be Free Cooperativa Sociale, the Co-ordinating National Community of Hospitality Network (CNCA), the trade union CGIL, the trade union CISL, the Cooperativa Sociale Dedalus, ECPAT Italy, On the Road Onlus, the Salvation Army Italy, the trade union UIL and the Italian Union of Women Major Superiors (USMI) were contacted; finally, for the report on the UK, the following NGOs and other members of civil society were contacted: Africans Unite Against Child Abuse (UK), Anti-Slavery International, Black Association of Women Step Out (BAWSO), The Bromley Trust, City Hearts, Comic Relief, ECPAT UK, the Helen Bamber Foundation, the Human Trafficking Foundation, the Immigration Law Practitioner Association, the Joseph Rowntree Foundation, Kalayaan, Law Centre (Northern Ireland), the Legal Services Agencies Ltd. (Scotland), Migrant Helpline, the North Kensington Law Centre, the POPPY Project, the Refugee Council, the Salvation Army, the Scottish Refugee Council, Stop the Traffik, Trafficking Awareness Raising Alliance of Glasgow Community and Safety – TARA Scotland, the Trade Union Congress, Unite the union, Unseen UK and Women's Aid (Belfast).

# Chapter I

## NGOs and the Council of Europe Convention on Action against Trafficking in Human Beings

### 1. Premise

A preliminary clarification is to be made regarding the term “non-governmental organisation” (NGO) itself. There is no clear definition and the existence of overlapping terms, such as “civil society organisations” or “non-profit”, makes a clear delimitation difficult.<sup>7</sup> Generally, it can be said that such organisations are organisations that are independent from the government, professionalised and pursuing the aim of promoting the common good.<sup>8</sup> First of all, it needs to be clarified that for this work, other members of civil society, such as the media, lawyers or other professional groups particularly relevant in the identification or awareness raising fields (e.g. doctors and teachers), were not addressed. Secondly, due to the lack of a consistent use of the term “NGO” in the CoE Convention itself, a distinction needs to be made between a strict and a broad understanding of the term. In fact, with regard to strategic partnerships and co-operation between NGOs and State authorities and public officials (discussed in Chapter II), a strict interpretation of the term was used, thus excluding other members of civil society, such as trade unions, but including academic institutions. However, in the monitoring context and for the survey conducted (discussed in Chapter III) a broader understanding of the term was used. In fact, it included all organisations based in Austria, Italy or the UK that were consulted during the first evaluation round conducted by GRETA, as listed in its reports. As the selection criterion was the actor’s involvement in the monitoring process, not only NGOs in the strict sense, but also other members of civil society, such as trade unions, were included. This distinction is in line with the different

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<sup>7</sup> Lewis, 2009, pp. 1 – 3.

<sup>8</sup> Martens, 2002, p. 282.

understandings in the Convention itself and – in the author’s opinion – is therefore reasonable to maintain also in the course of this research.

Non-governmental organisations play a crucial role in the fight against human trafficking; they “should play the role others do not play”.<sup>9</sup> Considering the relative absence of government initiatives in providing support and care for victims of trafficking, it is NGOs that are confronting the challenge and organise, provide services and lobby for change.<sup>10</sup> They are also in a good position to work with victims of trafficking, who often do not trust public authorities and are reluctant to approach them, due to their uncertain immigration status and fear of deportation, fear of their traffickers finding out or due to a general mistrust towards authorities because of personal experiences with corruption or involvement of officials in the trafficking chain.<sup>11</sup>

There are many different types of anti-trafficking NGOs. Some work directly with victims, while others focus on research and advocacy, there are faith-based organisations, non-rights based organisations and some taking a general human rights perspective, while others focus on labour rights, rights of children, women’s rights, the rights of the marginalized groups, the rights of immigrants or the assistance of victims of crime. They have different competencies, perspectives and therefore also different priorities.<sup>12</sup>

Their tasks include activities in the fields of prevention, training, research, victim identification, assistance, protection, reintegration of victims and also in monitoring the implementation of international obligations and of the measures taken by their governments. So it can be said that they work on two levels. On a horizontal level, they are important partners for State authorities in the fight against human trafficking. On a more vertical level, they monitor the State’s actions, do advocacy work and report to national or international monitoring bodies.

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<sup>9</sup> Council of Europe, The role of NGOs in combating human trafficking and supporting (presumed) trafficked persons, presented by Suzanne Hoff, The International La Strada Association, The Netherlands, February 2011, available at [www.coe.int/t/dghl/cooperation/economiccrime/trafficking/Projects/THB%20Azerbaijan/REPORT\\_HOFF.pdf](http://www.coe.int/t/dghl/cooperation/economiccrime/trafficking/Projects/THB%20Azerbaijan/REPORT_HOFF.pdf) (consulted on 15 April 2015), p. 4.

<sup>10</sup> Tzvetkova, 2002, p. 60.

<sup>11</sup> *Ibidem*, p. 61.

<sup>12</sup> OSCE, 2008, p. 31.

On the horizontal level, they mainly provide services and are involved in coordination and networking mechanisms with other NGOs or other actors in the field, especially the State authorities.

In the area of prevention, the range of activities goes from awareness-raising targeting the public and potential victims, education, lobbying and capacity building, to the provision of trainings for the key actors (such as police officers, border guards, judges, labour inspectors, social workers and others), to local community work, such as conflict mediation, and research.

NGOs may also play a role in the identification process and in first assistance and protection measures, including identification and referral through outreach activities, drop-in centres or hotlines, and protection in shelters or providing legal counselling or psychological and social care. Long-term assistance activities include shelter assistance, the accompaniment to social and healthcare services and inclusion in the social and cultural environment.<sup>13</sup> NGOs can provide legal and administrative support to victims of trafficking in court or for documentation issues, or generally when dealing with the authorities.<sup>14</sup> In fact, NGOs can also serve as a valuable link between the authorities and victims of trafficking, due to their cooperation with the authorities on the one hand and the direct contact with victims of trafficking and the trust established between them on the other. This may also lead to a greater willingness to testify in court.<sup>15</sup> Some NGOs also provide labour inclusion through vocational trainings and work placement in countries of origin, destination or third countries. Also return and assistance measures, such as voluntary assisted return, reintegration assistance and cooperation with stakeholders in countries of origin, of destination and third countries, are included in the wide range of activities of anti-trafficking NGOs.<sup>16</sup>

In a vertical relation to the State authorities or international bodies, NGOs should also play the role of the critical watchdog and monitor the implementation of international

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<sup>13</sup> European NGOs Platform against Trafficking, Exploitation and Slavery, ENPATES Handbook, available at <http://enpates.org/dynamic/docs/ENPATES%20Handbook%20-%20english.pdf> (consulted on 30 April 2015), pp. 27 – 28.

<sup>14</sup> Tzvetkova, 2002, p. 64.

<sup>15</sup> Council of Europe, supra footnote 9, p. 4.

<sup>16</sup> European NGOs Platform against Trafficking, Exploitation and Slavery, supra footnote 13, pp. 27 – 28.

treaties and national anti-trafficking legislation and policies and review the impact of the measures and actions taken, especially with regard to the do-no-harm principle.

In order to be able to do so, it is crucial that their independence is guaranteed also when co-operating with the State. A clear distinction and definition of the different roles and responsibilities of the various actors always needs to be ensured and respected and possible conflicts of interests need to be avoided. Their autonomy and independence are crucial for their work and must be respected by the government. As human rights defenders, a series of rights are accorded to them in the UN Declaration on Human Rights Defenders,<sup>17</sup> which have to be implemented and respected by the States.<sup>18</sup>

A problem faced by anti-trafficking NGOs is their dependence on the social, economic and political environment they work in. They often face problems with regard to insufficient funding. Apart from the issue of insufficiency of funding, another problem is that governments or donors often set certain criteria for their support, so that the independency of NGOs is at stake. In addition, anti-trafficking NGOs are often very small organisations, but have a huge variety of responsibilities.<sup>19</sup>

As can easily be seen, NGOs are of fundamental importance and for this reason, it is important to recognise and to strengthen their role in the fight against human trafficking to the maximum extent possible. In this chapter, the focus is laid on the coming into life of the Council of Europe Convention and the involvement of NGOs therein.

## **2. The Council of Europe Convention on Action against Trafficking in Human Beings**

### **2.1 Background**

The Council of Europe started taking action to combat human trafficking in the late 1980s, focusing primarily on awareness-raising and on encouraging action. There followed several recommendations and numerous activities and initiatives, seminars and

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<sup>17</sup> United Nations, Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, adopted by General Assembly Resolution A/RES/53/144 of 9 December 1998.

<sup>18</sup> Article 2 (2) Declaration on Human Rights Defenders.

<sup>19</sup> Council of Europe, *supra* footnote 9, p. 4.



meetings. This led to the development of a legal framework for fighting human trafficking.<sup>20</sup>

At this point, the ground was prepared for a Convention. As emerges from the Recommendations,<sup>21</sup> the Council of Europe's action to combat human trafficking was confined to sexual exploitation and in 2002, the United Nations (UN) High Commissioner for Human Rights asked the Council to broaden its view to include trafficking for other forms of exploitation. Also the Parliamentary Assembly called for a Convention with added value to the already existing international instruments on the topic. The legislative process began in 2003, when the Ad Hoc Committee on Action against Trafficking in Human Beings (CAHTEH) was established with the task to draft a European convention on human trafficking.<sup>22</sup>

## **2.2 The drafting process**

The drafting process was initially a rather internal affair and the meetings of the Committee were closed to actors without observer status. Only after pressure from several international NGOs, including Amnesty International and Anti-Slavery International, did the Committee accept external submissions.<sup>23</sup> After that, NGOs submitted numerous recommendations,<sup>24</sup> which can be seen as evidence for their crucial role played already in the coming into life of the Convention.

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<sup>20</sup> Council of Europe, supra footnote 1, pp. 1 – 2.

<sup>21</sup> See, for instance, Recommendation No. R(2000)11 of the Committee of Ministers to member states on action against trafficking in human beings for the purpose of sexual exploitation, adopted by the Committee of Ministers on 19 May 2000, at the 710<sup>th</sup> meeting of the Ministers' Deputies; Recommendation Rec(2001)16 of the Committee of Ministers to member states on the protection of children against sexual exploitation, adopted by the Committee of Ministers on 31 October 2001, at the 771<sup>st</sup> meeting of the Ministers' Deputies.

<sup>22</sup> Gallagher, 2006, pp. 171 – 173.

<sup>23</sup> Gallagher, 2010, pp. 112 – 113.

<sup>24</sup> See, for example, La Strada International, Amnesty International, Anti-Slavery International, Conclusions and Recommendations to the 8<sup>th</sup> meeting of the Ad Hoc Committee on Action Against Trafficking in Human Beings (CAHTEH) 22 February – 25 February 2005, available at [http://lastradainternational.org/lisidocs/La%20Strada%20International,%20Conclusions&Reccomendation%20to%20the%208th%20meeting%20of%20CAHTEH%20\[IS%20THIS%20A%20FINAL%20VERSION\].pdf](http://lastradainternational.org/lisidocs/La%20Strada%20International,%20Conclusions&Reccomendation%20to%20the%208th%20meeting%20of%20CAHTEH%20[IS%20THIS%20A%20FINAL%20VERSION].pdf) (consulted on 24 February 2015); Joint NGOs, Joint NGO Statement on the draft European Convention on Trafficking in Human Beings, signed by 180 national and international NGOs (text reproduced with list of signatories in AI/ASI January 2005 submission), AI Index: IOR 61/020/2004, November 2004, available at [www.amnesty.org/download/Documents/96000/ior610202004en.pdf](http://www.amnesty.org/download/Documents/96000/ior610202004en.pdf) (consulted on 8 March 2015).

The final text was adopted by the Council of Ministers on 3 and 4 May 2005 and thus celebrates its tenth anniversary this year.<sup>25</sup>

### **2.3 The Convention**

The Council of Europe Convention on Action against Trafficking in Human Beings, adopted in 2005 and entered into force in 2008, is the most complete instrument to combat human trafficking so far. It is conceived as a supplement to the UN Protocol,<sup>26</sup> improving the protection of victims, putting the emphasis on human rights and developing the standards set in the UN Protocol.<sup>27</sup> In contrast to the latter, which applies only to human trafficking in the frame of transnational organised crime, the Council of Europe Convention applies to all forms of trafficking, including all forms of exploitation, trafficking in women, men and children, whether national or transnational, whether or not connected with organised crime.<sup>28</sup>

The Council of Europe Convention focuses on human rights and victim protection and emphasises the importance of ensuring gender equality,<sup>29</sup> considering that “trafficking in human beings constitutes a violation of human rights and an offence to the dignity and integrity of the human being”.<sup>30</sup> Important steps towards a stronger protection of victims of human trafficking are the recognition that an accurate identification of victims is essential, that State Parties must provide basic assistance to all victims within its jurisdiction, that victims need protection from further harm and that criminalization of victims must be avoided. In addition, it provides special measures for children, filling the gap left by the UN Protocol on this regard.<sup>31</sup> Another added value is the establishment of a monitoring mechanism, characterised by independence, expertise and

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<sup>25</sup> The 10<sup>th</sup> anniversary of the opening for signature of the Council of Europe Convention on Action against Trafficking in Human Beings was celebrated with a conference held in Strasbourg on 16 June 2015; see Council of Europe, Action against Trafficking in Human Beings, available at [www.coe.int/t/dghl/monitoring/trafficking/10th\\_anniv\\_conf\\_en.asp](http://www.coe.int/t/dghl/monitoring/trafficking/10th_anniv_conf_en.asp) (consulted on 22 June 2015).

<sup>26</sup> United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, adopted in 2000 and entered into force on 25 December 2003, available at [www.unodc.org/documents/treaties/UNTOC/Publications/TOC%20Convention/TOCebook-e.pdf](http://www.unodc.org/documents/treaties/UNTOC/Publications/TOC%20Convention/TOCebook-e.pdf) (consulted on 20 February 2015).

<sup>27</sup> Gallagher, 2006, pp. 174 – 175.

<sup>28</sup> Article 2 CoE Convention.

<sup>29</sup> Gallagher, 2006, pp. 174 – 175.

<sup>30</sup> Preamble to the CoE Convention.

<sup>31</sup> Gallagher, 2006, pp. 176 – 179.

cooperation with the Parties and aiming at being an effective aid to fight human trafficking,<sup>32</sup> allowing for the first time for a systematic evaluation of the States' efforts in the fight against human trafficking.<sup>33</sup>

So far, 43 States have ratified the Convention, with Belarus as the only non-member of the Council of Europe, while Turkey has signed, but not ratified the Convention. The Council of Europe Member States that have not even signed the Convention are Liechtenstein, Monaco, Russia and the Czech Republic as the only European Union member State.<sup>34</sup>

## **2.4 The monitoring mechanism**

The mechanism monitoring the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings, foreseen by articles 36 to 38 of the Convention, is twofold: the Group of Experts on Action against Trafficking in Human Beings (hereinafter referred to as 'GRETA'), constituting the technical and independent body of experts, and the Committee of the Parties, the more political component.

### *2.4.1 The Group of Experts on Action against Trafficking in Human Beings*

The Convention provides that GRETA is formed by a minimum of 10 to a maximum of 15 members, allowing for a gender and geographical balance and multidisciplinary expertise. The members are elected by the Committee of the Parties for a term of office of 4 years, which is renewable once. The members are chosen from persons with high moral standards with expertise and experience in the field of human rights and human trafficking, who are independent and impartial and nationals from a State party to the Convention, without it being possible to have two members with the same nationality. Further, the members should reflect the main legal systems.<sup>35</sup>

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<sup>32</sup> Council of Europe, Fact Sheet: Draft Council of Europe Convention on Action against trafficking in human beings, August 2004, available at [http://lastradainternational.org/lisidocs/4%20Fact%20Sheet%20Draft%20Council%20Convention%20\(CoE\).pdf](http://lastradainternational.org/lisidocs/4%20Fact%20Sheet%20Draft%20Council%20Convention%20(CoE).pdf) (consulted on 24 February 2015), p. 2.

<sup>33</sup> Sax, 2012, p. 152.

<sup>34</sup> See Council of Europe Action against Trafficking in Human Beings Website, Status of Signature and Ratification of the Convention, available at [www.coe.int/t/dghl/monitoring/trafficking/Flags-sos\\_en.asp](http://www.coe.int/t/dghl/monitoring/trafficking/Flags-sos_en.asp) (consulted on 20 February 2015).

<sup>35</sup> Article 36 (2) and (3) CoE Convention.

The Convention provides that the procedure for the election of the members of GRETA will be determined by the Committee of Ministers, “after consulting with and obtaining the unanimous consent of the Parties, within a period of one year following the entry into force of the Convention”.<sup>36</sup> Also in this regard NGOs played a role, issuing recommendations on how to ensure the election of independent experts.<sup>37</sup>

The Convention further enables GRETA to adopt its own internal rules of procedure.<sup>38</sup>

#### *2.4.2 The Committee of the Parties*

The Committee of the Parties is formed by the representatives of the Committee of Ministers of the Council of Europe of the member States having become parties to the Convention and representatives of the States that have become parties to the Convention, but are not members of the Council of Europe.<sup>39</sup> Also the Committee of the Parties is enabled to adopt its own rules of procedure.<sup>40</sup>

For the purpose of this research, it is interesting to note that international NGOs can be authorised by the Committee “to send representatives as observers to its meetings on an ad hoc basis, in particular Amnesty International, Anti-Slavery International, La Strada International and the International Federation Terre des Hommes (IFTDH)”.<sup>41</sup>

#### *2.4.3 The Procedure*

Regarding the procedural aspects, the relevant article 38 of the Convention provides that the evaluation procedure is divided into rounds and that GRETA will determine their length. Each evaluation round focuses on the implementation of specific provisions of the Convention, selected by GRETA. The Convention generally foresees three ways for GRETA to obtain information: a questionnaire, to be sent to the State Parties being

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<sup>36</sup> Article 36 (4) CoE Convention.

<sup>37</sup> See Amnesty International, Council of Europe Convention against Trafficking: 14 Recommendations to ensure the election of independent experts of the highest calibre to monitor implementation, AI Index: IOR 61/025/2007, November 2007, available at [www.amnesty.org/download/Documents/64000/ior610252007en.pdf](http://www.amnesty.org/download/Documents/64000/ior610252007en.pdf) (consulted on 24 February 2015); Anti-Slavery International, La Strada International, Amnesty International, Experts for GRETA: Joint NGO action for a strong monitoring mechanism, 23 July 2008, available at <http://lastradainternational.org/lisidocs/725%20GRETA%20NGO%20letter%20-%20plcaed%20by%20BB.pdf> (consulted on 17 April 2015).

<sup>38</sup> Article 36 para 4 CoE Convention; see Internal rules of procedure of GRETA, THB-GRETA(2009)1.

<sup>39</sup> Article 37 (1) CoE Convention.

<sup>40</sup> Article 37 (3) CoE Convention.

<sup>41</sup> Rule 2 (c) Rules of procedure of the Committee of the Parties, THB-CP (2008)2.

monitored, requests of information addressed to civil society and, subsidiarily, country visits in cooperation with the national authorities, national experts and specialists. After receiving all the information, always leaving open the possibility to request further information, GRETA prepares a draft report to be sent to the State party concerned, which can comment on the report. The comments are taken into account when GRETA prepares the final report and conclusions on the measures taken by the State Party, addressed to the State Party concerned and the Committee of the Parties. The final report and possible comments from the State Party, which are kept separate from the report and attached to it, are made publicly available. On the basis of GRETA's final report and conclusions, the Committee of the Parties issues its recommendations to the State Party regarding the measures to be taken to implement GRETA's conclusions and may set a date for submitting information on the measures taken in order to comply with the recommendations.<sup>42</sup> The Committee of the Parties can also issue recommendations encouraging better cooperation with that Party.<sup>43</sup>

### **3. NGOs in the Council of Europe Convention on Action against Trafficking in Human Beings**

The Council of Europe Convention recognises the important role of NGOs in the field of human trafficking and encourages their involvement in several contexts, both at a horizontal level as partners for the States Parties and at a vertical level as source of information for GRETA.

In fact, at a horizontal level, several provisions encourage the States Parties to involve NGOs in the measures to be taken. While mentioned provisions concern the areas of involvement, article 35 clarifies the preferable form of cooperation, providing that “each Party shall encourage state authorities and public officials, to co-operate with non-governmental organisations, other relevant organisations and members of civil society, in establishing strategic partnerships with the aim of achieving the purpose of this Convention”.<sup>44</sup>

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<sup>42</sup> See Appendix 1.

<sup>43</sup> Article 38 (1 – 7) CoE Convention.

<sup>44</sup> Article 35 CoE Convention.

At a vertical level, NGOs are important partners and sources of information for GRETA. Article 38 paragraph 3 provides that “GRETA may request information from civil society”.<sup>45</sup> Apart from such an information request by GRETA, there are other ways for NGOs to provide information.

Both of these two contexts will be further analysed and commented in Chapters II and III.

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<sup>45</sup> Article 38 (3) CoE Convention.

## Chapter II

# Co-operation and strategic partnerships between NGOs and State authorities and public officials

### 1. Premise

As already mentioned, the Council of Europe Convention encourages States to involve NGOs in the development and implementation of strategies and measures taken in numerous fields of action. This can be considered to be indicative of the opinion of the drafters that the objectives set forth in the Convention are most effectively achieved through co-operation among the relevant actors.<sup>46</sup> It has been argued that a human rights based approach requires the participation and inclusion of the views of the persons concerned. In the Convention, a direct inclusion of victims of trafficking in the development, implementation and assessment of policies and measures is not guaranteed, but it focuses on their representation by NGOs.<sup>47</sup> Areas of action where co-operation is explicitly encouraged by the Convention are prevention (article 5 para 6), identification of victims (article 10 para 2), assistance to victims (article 12 para 5), repatriation and return of victims (article 16 para 5 and 6) and assistance and support to victims during criminal proceedings (article 27 para 3). Furthermore, the Convention recognises the important role played by civil society in identifying the demand as one of the main causes of human trafficking (article 6 (b)) and the need to protect NGOs from retaliation or intimidation during or after criminal proceedings (article 28 para 4). NGOs can also be valuable information providers in the collection of data for the national database.<sup>48</sup> In comparison to the UN Protocol, which encourages NGO involvement

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<sup>46</sup> Gallagher, 2006, p. 185.

<sup>47</sup> Planitzer, 2014, pp. 122 – 123.

<sup>48</sup> 2<sup>nd</sup> General Report on GRETA's activities, GRETA(2012)13, p. 14.

only with regard to prevention measures (article 9, which also includes measures to discourage the demand and trainings), and assistance (article 6, which also includes legal counselling), the Convention refers to NGOs more frequently and recognises the importance of NGO involvement more comprehensively.

According to article 35, each State Party “shall encourage state authorities and public officials, to co-operate with non-governmental organisations, other relevant organisations and members of civil society, in establishing strategic partnerships with the aim of achieving the purpose of this Convention”. It can be noted that the States are only held to “encourage” State authorities and public officials to engage in strategic partnerships with NGOs, while there is no obligation to do so.<sup>49</sup> The Explanatory Report on the Convention clarifies that this article refers to the establishment of cooperative frameworks through which State actors coordinate their efforts with civil society, in order to fulfil their obligations under the Convention. There are various ways through which such strategic partnerships can be established: from regular dialogue to the setting up of round-table discussions and the signing of memoranda of understanding between State authorities and NGOs in the provision of protection and assistance for victims of trafficking.<sup>50</sup> In the author’s opinion, the fact that partnerships are only encouraged could cause problems, as it lies in the discretion of the State whether to co-operate and there is the risk that it will not do so if an NGO is too critical towards its actions and measures.

In fact, it must always be kept in mind that NGOs also play a very important role as critical watchdog, monitoring the implementation of measures by the State and being critical about shortcomings and implementation gaps. The role as independent member of civil society and critical watchdog needs to be maintained also when working in close partnership with the State. For this reason, there needs to be a clear distinction between the different roles and responsibilities of the various actors in such co-operation agreements. In addition, some tasks cannot be expected to be carried out by NGOs, as their independence needs to be safeguarded. For example, they cannot become part of criminal investigations or be expected to refer victims of trafficking to

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<sup>49</sup> Gallagher, 2006, p. 185.

<sup>50</sup> Explanatory Report on the CoE Convention, paragraphs 352 and 353.



the authorities without their consent. All in all, they cannot play the role of the government and the distinctive roles and interests need to be respected, also with regard to funding. In this context, it is crucial that funding is not made dependent on the NGO's compliance with instructions of the government.<sup>51</sup> Finally, it needs to be kept in mind that in case the service provider on the ground is an NGO, for example in the area of assistance, this does not lift the State's obligations and the actor responsible under the Convention remains the State Party.<sup>52</sup> In fact, in case of delegation, the State has the obligation to provide adequate funding and monitor the quality of the services provided by the NGO.<sup>53</sup>

According to La Strada International, such partnerships are of extreme importance, as NGOs need the other stakeholders in order to be able to support trafficked persons. It noted that especially systems with a National Referral Mechanism can be effective, as co-operation is structured instead of incidental and clarity is given on the work, roles and interests of the different partners. A better understanding of the other's role is considered to be very important, as partners sometimes act as if being in a partnership means that all partners follow the same goals and interests, which is not the case. For instance, the police follow the aim to build cases against the traffickers, while NGOs pursue the aim of providing victims of trafficking access to justice; the authorities want to gather information from the trafficked persons, while NGOs are interested in protecting their privacy. Therefore, interests may overlap, but do not coincide, which makes a good understanding of the other's role and interests and their respect essential for a well-functioning co-operation. As to the risk of drawbacks the involvement in such partnerships can have on the independence of NGOs, La Strada International indicated that "it depends on several aspects", such as the extent to which other partners, having better funding and a more powerful position, respect the independence of the NGO, the extent to which the NGO wants or has a position to be critical towards their partners or the extent to which the NGO is financially dependent on the other partners. LSI noted that it may be difficult for NGOs to defend their position, in case of financial or political pressure from other partners in the co-operation. Therefore, it would be advisable to

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<sup>51</sup> Council of Europe, supra footnote 9, p. 4.

<sup>52</sup> OSCE, 2008, p. 32.

<sup>53</sup> 3<sup>rd</sup> General Report on GRETA's activities, GRETA(2013)17, p. 29.

include the independence of NGOs, in view of them being pressured or underfinanced, as a separate issue in the monitoring.<sup>54</sup>

GRETA frequently underlines the importance of co-operation and strategic partnerships between the government and NGOs and its reports give plenty of examples of such partnerships, for example with regard to Moldova, Croatia or Albania.<sup>55</sup>

Moving from NGO involvement on the institutional and policy-making level to their involvement in specific measures, the next section discusses briefly the areas of action where the Convention envisages co-operation and strategic partnerships between NGOs and State authorities and public officials.

## **2. Areas of co-operation and partnerships**

### **2.1 Involvement on the institutional level**

The Group has noted that there is an increasing number of anti-trafficking co-ordination structures on the national level that also include NGOs.<sup>56</sup> In its last annual report, GRETA highlights that most countries have developed institutional frameworks for co-operation with service providing NGOs, either by granting them the status of full members in their co-ordination forum or through the approval of specific Memoranda of Understanding or protocols. On the other hand, their involvement in the policy-making process is still limited and there are still countries where NGOs do not have full member status, but only observer status. In this case, they are invited to participate, but they are not involved in the development, implementation and assessment of anti-trafficking policies. GRETA has issued urging recommendations to nine countries to improve the involvement of NGOs in the policy-making process.<sup>57</sup> In the author's opinion, inclusion of NGOs in institutional settings and policy-making would be beneficial to all interested parties, as it would provide NGOs with the opportunity to share their expertise and

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<sup>54</sup> Email from Marieke van Doorninck, Advisor Public Affairs, La Strada International, 4 May 2015.

<sup>55</sup> Email from Petya Nestorova, Executive Secretary of the Council of Europe Convention on Action against Trafficking in Human Beings, GRETA, 22 May 2015; Report concerning the implementation by the Republic of Moldova, GRETA(2011)25, p. 13; Report concerning the implementation by Croatia, GRETA(2011)20, pp. 11 – 12; Report concerning the implementation by Albania, GRETA(2011)22, p. 15.

<sup>56</sup> 3<sup>rd</sup> General Report on GRETA's activities, GRETA(2013)17, p. 7.

<sup>57</sup> 4<sup>th</sup> General Report on GRETA's activities, GRETA(2015)1, p. 59.

critical view in such fora and the authorities with the opportunity to profit from them before investing in measures that are criticised afterwards.

## **2.2 Prevention**

Prevention is essential for any anti-trafficking strategy. Chapter II of the Convention contains provisions concerning prevention measures in the strict sense (articles 5 and 6) and specific measures concerning border and documents control in order to prevent human trafficking (articles 7, 8 and 9). Article 5 of the Convention provides that each State Party, in co-operation among all relevant governmental and non-governmental bodies, shall take measures to prevent human trafficking. As trafficking has implications for various fields of action, co-ordination is fundamental.<sup>58</sup> Such measures include research on trafficking and trafficking-related issues in order to identify effective strategies, awareness raising through information campaigns, education and training for risk groups and professionals, carrying out social and economic initiatives to tackle the main causes of human trafficking, enabling legal migration, providing accurate information about legal ways of migration, employment opportunities in the country in order to counter the traffickers' misinformation and taking specific measures to reduce children's vulnerability to trafficking, especially by creating a safe environment for children.<sup>59</sup> The Explanatory Report on the Convention recalls the concept of "protective environment", pointing out eight components.<sup>60</sup> Such measures need to be implemented by promoting a human rights-based and child-sensitive approach and using gender mainstreaming,<sup>61</sup> where gender mainstreaming is defined as "the (re)organisation, improvement, development and evaluation of policy processes, so that a gender equality perspective is incorporated in all policies at all levels and at all stages, by the actors normally involved in policy making".<sup>62</sup> Other preventive measures

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<sup>58</sup> Explanatory Report on the CoE Convention, paragraph 102.

<sup>59</sup> Article 5 CoE Convention and Explanatory Report thereon.

<sup>60</sup> See Explanatory Report on the CoE Convention, paragraph 106.

<sup>61</sup> Article 5 CoE Convention.

<sup>62</sup> Explanatory Report on the CoE Convention, paragraph 104.

include measures discouraging demand,<sup>63</sup> strengthening border control<sup>64</sup> and ensuring the security, control, legitimacy and validity of travel or identity documents.<sup>65</sup>

As an example of a good strategy, a prevention programme for the high-risk group of Roma in two cities close to Varna, Bulgaria, launched in 2010 can be mentioned. It was carried out by the Bulgarian National Commission for Combating Trafficking in Human Beings, the municipal authorities in Varna, the local commission in Varna and the NGO Association “Sauchastie”.<sup>66</sup>

As to awareness raising, GRETA noted in its last annual report that almost all of the evaluated countries have taken action and welcomed the efforts of 25 countries in this regard, but has found that there is a lack of assessment of their effectiveness and impact. It therefore stressed the importance of carrying out such evaluations and recommended to include NGOs in the development and assessment of awareness raising campaigns.<sup>67</sup>

The general compliance with the provisions on prevention may be due to the fact that in this respect, all actors involved pursue the same interest, which is to prevent persons from being trafficked. On the other hand, it has to be noted, however, that the involvement of NGOs is not always ensured, in particular with regard to the evaluation of campaigns and effectiveness or child impact assessments, where stronger NGO involvement and improvements are needed.

### **2.3 Identification**

The identification as victims of trafficking is crucial for trafficked persons in order to get access to protection and assistance, while for the prosecution, it is important to get information and witnesses to start the criminal proceeding against the perpetrator. However, identification is not always easy and requires trained and qualified persons to carry out the enquiries. For this reason, article 10 of the Convention provides that the States Parties shall “provide its competent authorities with persons who are trained and qualified in preventing and combating trafficking in human beings, in identifying and helping victims, including children, and shall ensure that the different authorities

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<sup>63</sup> Article 6 CoE Convention.

<sup>64</sup> Article 7 CoE Convention.

<sup>65</sup> Articles 8 and 9 CoE Convention.

<sup>66</sup> 3<sup>rd</sup> General Report on GRETA’s activities, GRETA(2013)17, p. 38.

<sup>67</sup> 4<sup>th</sup> General Report on GRETA’s activities, GRETA(2015)1, p. 38.

collaborate with each other as well as with relevant support organisations, so that victims can be identified [...] and issued with residence permits under the conditions provided for in article 14 of the present Convention”.<sup>68</sup> As pointed out in the Explanatory Report on the Convention, the competent authorities, which are the national authorities that get in contact with potential victims, such as police officials, border guards, labour inspectorates, immigration authorities or other, are often not or only insufficiently aware of the problem. As trafficked persons often do not have identity documents, there is a risk that the officials tend to treat them as illegal migrants, prostitutes or illegal workers. In that case, not only do they not get help, but they are punished or sent back to their country of origin.<sup>69</sup> For this reason, training is of fundamental importance, as is the collaboration among the authorities and with “support organisations”. The Explanatory Report clarifies that such organisations can be NGOs that provide assistance to victims of trafficking. In fact, NGOs can be valuable partners and make substantial contributions to the identification process.<sup>70</sup> The Parties are further held to adopt a legislative framework that allows the correct identification of victims in collaboration with other State Parties and support organisations. During the identification process, which starts when there are “reasonable grounds to believe that a person has been victim of trafficking”, the person cannot be removed from the territory and gets access to some of the assistance measures until the completion of the process, enumerated in article 12, paragraphs 1 and 2, such as accommodation and emergency medical treatment.<sup>71</sup> This is necessary, because the identification process can take time and the immediate removal of the person would hinder the process and deny the person’s access to his or her rights. Once the identification process is completed, the person will have access to the whole range of assistance and protection measures set forth in the Convention.<sup>72</sup>

GRETA’s evaluation reports show that there are some countries where the identification of victims lies solely on the law enforcement or immigration authorities. In the absence

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<sup>68</sup> Article 10 (1) CoE Convention.

<sup>69</sup> Explanatory Report on the CoE Convention, paragraphs 127 – 129.

<sup>70</sup> 4<sup>th</sup> General Report on GRETA’s activities, GRETA(2015)1, p. 40.

<sup>71</sup> Article 10 (2) CoE Convention.

<sup>72</sup> Explanatory Report on the CoE Convention, paragraphs 131 – 132.

of a multi-agency approach, a risk identified by GRETA is that identification basically depends on the victim's willingness to cooperate in the criminal proceeding against the perpetrator.<sup>73</sup> Another concern expressed by GRETA relates to the scenario where a potential victim is apprehended as an irregular migrant. For example in the reports on Austria, Denmark and the Slovak Republic, GRETA noted the risk of being immediately deported without being screened for human trafficking indicators. In order to avoid this, it is recommendable to allow NGOs access to detention facilities.<sup>74</sup>

As can be seen, as the interests and focuses of the various actors involved diverge, NGOs having as primary aim to grant victims access to protection and assistance, while the authorities' focus lies more on identifying them in order to get them to testify against their perpetrators, it is already more difficult to establish co-operation mechanisms. However, precisely because interests diverge, it would be of particular importance to establish strategic partnerships, defining and distinguishing the roles of the various actors, in order to safeguard the NGOs' independence.

It has to be positively noted that some State Parties allow for a multi-agency identification process, involving social workers, labour inspectorates, NGOs and other bodies in the process and giving them the possibility to identify victims. In GRETA's view, the preferable form of a proper identification process would be by developing it as part of a national referral mechanism, ensuring the co-ordination of all relevant actors involved in the process.<sup>75</sup> A National Referral Mechanism (NRM) is defined as a "co-operative framework through which state actors fulfil their obligations to protect and promote the human rights of trafficked persons, co-ordinating their efforts in a strategic partnership with civil society".<sup>76</sup> NRMs are particularly important in the identification process in order to refer the victims to specialized agencies and support services.<sup>77</sup>

As positive examples of countries, where NGOs are involved in the identification process, GRETA mentions Austria, Croatia and the Republic of Moldova. For instance,

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<sup>73</sup> 4<sup>th</sup> General Report on GRETA's activities, GRETA(2015)1, p. 41.

<sup>74</sup> 2<sup>nd</sup> General Report on GRETA's activities, GRETA(2012)13, p. 15.

<sup>75</sup> Meeting report of the 6<sup>th</sup> meeting of the Committee of the Parties, THB-CP(2011)RAP6, p. 11.

<sup>76</sup> OSCE, 2004, p. 15.

<sup>77</sup> For further information, see OSCE, 2004, pp. 15 – 18.

in the Republic of Moldova, multidisciplinary teams have been established to join forces in the identification of victims.<sup>78</sup>

In its last annual report, GRETA highlighted the example of Serbia, where the structure responsible for identification is the Centre for the Protection of Victims of Trafficking in Human Beings, part of the Ministry of Labour, Employment and Social Policy. The process is structured as follows: the body or person who detects a possible victim, informs the Centre, which sends staff to the location to conduct an interview with the person, to gather information from other relevant sources, such as the police and NGOs, and to decide whether the person is a victim, basing the assessment on the information received.<sup>79</sup>

#### **2.4 Assistance to victims**

Another area of action where the involvement of NGOs is typically important is the provision of assistance to victims of trafficking, as provided for in article 12 of the Convention. According to the mentioned article, each Party has to take all necessary measures to “assist victims in their physical, psychological and social recovery”. It then lists minimum measures that need to be provided, such as guaranteeing standards of living able to ensure subsistence, for instance through adequate and safe accommodation and psychological and material assistance, medical treatment for emergency cases, translation services, counselling and information on their legal rights, assistance in pursuing their rights in criminal proceedings and education for children.<sup>80</sup> These measures have to be provided always taking into account the victims’ safety and protection.<sup>81</sup> The mentioned measures are the assistance measures that all persons for whom there are reasonable grounds to believe that they are victims of trafficking, even though the identification process has not been completed, are entitled to. Also victims of trafficking during the recovery and reflection period are entitled only to mentioned measures. After that period, identified victims of trafficking have access to other assistance measures, set forth in the following paragraphs. Therein, it is established that the States Parties shall “provide medical or other assistance to victims lawfully resident

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<sup>78</sup> 2<sup>nd</sup> General Report on GRETA’s activities, GRETA(2012)13, p. 14.

<sup>79</sup> 4<sup>th</sup> General Report on GRETA’s activities, GRETA(2015)1, p. 41.

<sup>80</sup> Article 12 (1) CoE Convention.

<sup>81</sup> Article 12 (2) CoE Convention.

within its territory who do not have adequate resources and need such help”<sup>82</sup> and they shall “adopt the rules under which victims lawfully resident within its territory shall be authorised to have access to the labour market, to vocational training and education”.<sup>83</sup> In taking these measures, the State Parties are encouraged to co-operate with NGOs.<sup>84</sup> In case the provision of assistance is delegated to such organisations, it is nevertheless the State that remains responsible for the implementation of the Convention. In fact, in such case, the State needs to make sure that the assistance services provided are adequate, in particular by providing sufficient funding.<sup>85</sup> It is very important to underline, that the provision of assistance must not be made conditional on the person’s willingness to testify against the perpetrators<sup>86</sup> and needs to be provided on a “consensual and informed basis, taking due account of the special needs of persons in a vulnerable position and the rights of children in terms of accommodation, education and appropriate health care”.<sup>87</sup> In this context it has to be noted, however, that the issuing of residence permits can be made conditional on the person’s co-operation with the authorities in investigation or criminal proceedings.<sup>88</sup> As noted by GRETA, this may lead to difficulties where assistance measures are only provided to legally residing persons, making the access to such assistance in fact dependent on the willingness to co-operate with the authorities. In such a scenario, some NGOs have reported that, if a person is not willing or able to co-operate, they choose not to inform the police about the case.<sup>89</sup>

In the last General Report, it has been noted that out of the 35 States evaluated at that moment, GRETA has urged 28 to improve the assistance measures, with regard to different aspects. In particular, in States where the provision of assistance, especially the running of shelters, is delegated to NGOs, GRETA noted a lack of sufficient funding, quality control and periodic assessments.<sup>90</sup> Also the most recently evaluated countries

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<sup>82</sup> Article 12 (3) CoE Convention.

<sup>83</sup> Article 12 (4) CoE Convention.

<sup>84</sup> Article 12 (5) CoE Convention.

<sup>85</sup> Explanatory Report on the CoE Convention, paragraph 149.

<sup>86</sup> Article 12 (6) CoE Convention.

<sup>87</sup> Article 12 (7) CoE Convention.

<sup>88</sup> Article 14 (1) (b) CoE Convention.

<sup>89</sup> 4<sup>th</sup> General Report on GRETA’s activities, GRETA(2015)1, p. 48.

<sup>90</sup> *Ibidem*, p. 42.



Finland, Germany, Hungary and Lithuania were urged to improve the provision of assistance.<sup>91</sup>

As can be noted also in this area, as interests diverge, from building criminal cases against the perpetrators for the authorities to the focus on the victim and the provision of assistance and protection for NGOs, co-operation becomes more difficult and the need for a co-operative framework stronger, in order to avoid drawbacks on the NGOs' independence and, in particular, the consequences insufficient funding would have for their role as critical voices.

## **2.5 Repatriation and return of victims**

NGOs can also play a role in the repatriation and return of victims. According to article 16 para 5, each State Party “shall adopt such legislative or other measures as may be necessary to establish repatriation programmes, involving relevant national or international institutions and non-governmental organisations. These programmes aim at avoiding re-victimisation. Each Party should make its best effort to favour the reintegration of victims into the society of the State of return, including reintegration into the education system and the labour market, in particular through the acquisition and improvement of their professional skills. With regard to children, these programmes should include enjoyment of the right to education and measures to secure adequate care or receipt by the family or appropriate care structures”.<sup>92</sup> NGOs are also important contacts in countries of origin, where they can assist victims on their return<sup>93</sup> or with risk assessments to prevent re-trafficking.<sup>94</sup>

## **2.6 Assistance and support to victims during criminal proceedings**

According to article 27 para 3 the State Parties shall ensure to anti-trafficking or human rights NGOs “the possibility to assist and/or support the victim with his or her consent during criminal proceedings”.<sup>95</sup> Such assistance may be offered in the form of legal

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<sup>91</sup> See, respectively, Report concerning the implementation by Finland, GRETA(2015)9, p. 39; Report concerning the implementation by Germany, GRETA(2015)10, pp. 39 – 40; Report concerning the implementation by Hungary, GRETA(2015)11, pp. 36 – 37; Report concerning the implementation by Lithuania, GRETA(2015)12, p. 33.

<sup>92</sup> Article 16 (5) CoE Convention.

<sup>93</sup> Article 16 (6) CoE Convention.

<sup>94</sup> OSCE, 2014, pp. 38 – 44.

<sup>95</sup> Article 27 (3) CoE Convention.

assistance, but also of psychological support. In fact, GRETA has underlined the importance of NGO involvement in the psychological preparation of the trafficking victims to give statements and testify against the perpetrators, as they are often intimidated and afraid of retaliation.<sup>96</sup>

### **3. Case studies**

In this section, the three countries Austria, Italy and the UK will be taken as case studies for making considerations on the role of NGOs as partners for the State in implementing the provisions of the CoE Convention. This will also serve as a basis for subsequent considerations on the impacts of their positions on their involvement in the monitoring process. After giving short background information on the countries, the existing strategic partnerships and co-operation between NGOs and public authorities will be analysed, looking at the NGOs' participation on an institutional level and at their involvement in the following areas: prevention, identification, assistance to victims, repatriation and return of victims and assistance and support to victims during criminal proceedings. Finally, the question of how NGOs themselves perceive existing partnerships will be addressed, using the replies to the questionnaire sent to NGOs for this purpose. Existing challenges are also briefly discussed. A comparative analysis will then enable the drawing of interim conclusions.

#### **3.1 Austria**

##### *3.1.1 Background information*

Austria is a country of transit and of destination for trafficked persons. The majority of victims are women and children, all foreign nationals. The main form of trafficking present in Austria is trafficking for sexual exploitation, but cases of labour exploitation, forced begging, domestic servitude and forced illicit activities have also been registered.<sup>97</sup>

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<sup>96</sup> 4<sup>th</sup> General Report on GRETA's activities, GRETA(2015)1, p. 57.

<sup>97</sup> Task Force on Combating Human Trafficking Austria, Third Austrian Report on Combating Human Trafficking 2012 – 2014, available (in German) at [www.bmeia.gv.at/fileadmin/user\\_upload/Zentrale/Aussenpolitik/Menschenrechte/3\\_Oesterreichischer\\_Bericht\\_2012-2014.pdf](http://www.bmeia.gv.at/fileadmin/user_upload/Zentrale/Aussenpolitik/Menschenrechte/3_Oesterreichischer_Bericht_2012-2014.pdf) (consulted on 24 June 2015), p. 5.

Austria is considered to be very active in the fight against trafficking in human beings, with only one urging recommendation from GRETA during the first evaluation round. Significant measures have been adopted, in particular the establishment of the Task Force on Combating Human Trafficking in 2004 and the appointment of a National Co-ordinator on Combating Human Trafficking in 2009.<sup>98</sup>

The Task Force is in charge of co-ordinating the actions of all relevant actors in all fields of action, of evaluating the situation in Austria, of developing strategies and National Action Plans against Human Trafficking (NAPs) and of issuing recommendations to the government.<sup>99</sup> In the moment of evaluation by GRETA, Austria had adopted two NAPs. At present, Austria has adopted four National Action Plans.<sup>100</sup>

A concern expressed by GRETA is the lack of a comprehensive approach with regard to certain areas of action, in particular because of the geographical differences due to Austria's federal structure. In fact, GRETA outlined the need for stronger co-ordination between the Federal Government and the *Länder* with regard to assistance measures,<sup>101</sup> particularly relevant for child trafficking responses, in fact constituting the only urging recommendation made by GRETA towards Austria.<sup>102</sup> In particular, GRETA noted that the system and measures in place in Vienna are far more advanced than in the *Länder*.<sup>103</sup> It must be said, however, that more co-ordination with the *Länder* has been envisaged.<sup>104</sup>

### 3.1.2 Co-operation with NGOs

In Austria, there are several anti-trafficking NGOs, considered by the authorities as “instrumental in achieving progress in this area”.<sup>105</sup>

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<sup>98</sup> Report concerning the implementation by Austria, GRETA(2011)10, p. 6.

<sup>99</sup> Task Force on Combating Human Trafficking Austria, Replies by Austria, August 2010, available at [www.bmeia.gv.at/fileadmin/user\\_upload/bmeia/media/2-Aussenpolitik\\_Zentrale/Menschenrechte/GRETA\\_Austria\\_final.pdf](http://www.bmeia.gv.at/fileadmin/user_upload/bmeia/media/2-Aussenpolitik_Zentrale/Menschenrechte/GRETA_Austria_final.pdf) (consulted on 20 April 2015), p. 7.

<sup>100</sup> Federal Ministry for European and International Affairs website, Combating Trafficking in Human Beings, available at [www.bmeia.gv.at/en/european-foreign-policy/human-rights/priorities-of-austrian-human-rights-policy/combating-trafficking-in-human-beings/](http://www.bmeia.gv.at/en/european-foreign-policy/human-rights/priorities-of-austrian-human-rights-policy/combating-trafficking-in-human-beings/) (consulted on 24 May 2015).

<sup>101</sup> Report concerning the implementation by Austria, GRETA(2011)10, p. 6.

<sup>102</sup> *Ibidem*, p. 26.

<sup>103</sup> *Ibidem*, p. 16.

<sup>104</sup> Report submitted by the Austrian authorities on measures taken to comply with Committee of the Parties Recommendation, CP(2013)11, p. 5.

<sup>105</sup> Report concerning the implementation by Austria, GRETA(2011)10, p. 11.

a) Involvement on the institutional level

As a first aspect of co-operation with NGOs in Austria, the composition of the Task Force needs to be looked at. In fact, its composition includes representatives from the NGO Intervention Centre for Migrant Women Affected by Human Trafficking (LEFÖ-IBF), the NGO End Child Prostitution, Child Pornography and Trafficking in Children for Sexual Purposes – Austria (ECPAT – Austria), the independent research centre Ludwig Boltzmann Institute of Human Rights<sup>106</sup> and, since 2014, MEN VIA.<sup>107</sup> In addition, other NGOs and actors can participate occasionally, such as the NGOs EXIT and HERZWERK.<sup>108</sup> As already mentioned, the Task Force is also responsible for developing strategies and plans of action on the national level and the involvement of NGOs therein thus ensures the possibility to give input into policy-making. In fact, in its fourth National Action Plan, the Task Force highlights the precious input of NGOs in the development and implementation of the plan, considering that the institutionalised co-operation between the authorities and NGOs enables an accurate assessment of the situation and implementation gaps in practice and is also beneficial to investigations and criminal proceedings.<sup>109</sup> In addition, due to the special position of LEFÖ-IBF, which will be explained further below, the action plan refers in several contexts to this NGO as a partner for the implementation of the measures envisaged.<sup>110</sup>

Within the Task Force, working groups focus on specific issues, namely child trafficking, prostitution and labour exploitation.<sup>111</sup> This is a further occasion for NGO involvement in policy-making.

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<sup>106</sup> *Ibidem*, p. 10.

<sup>107</sup> Task Force on Combating Human Trafficking Austria, National Action Plan on Combating Human Trafficking for the years 2015 – 2017, adopted by the Austrian government, coordinated by the Federal Ministry for European and International Affairs, Vienna, April 2015, available (in German) at [www.bmeia.gv.at/fileadmin/user\\_upload/Zentrale/Aussenpolitik/Menschenrechte/Nationaler\\_Aktionsplan\\_2015-2017.pdf](http://www.bmeia.gv.at/fileadmin/user_upload/Zentrale/Aussenpolitik/Menschenrechte/Nationaler_Aktionsplan_2015-2017.pdf) (consulted on 24 May 2015), p. 4.

<sup>108</sup> Task Force on Combating Human Trafficking Austria, *supra* footnote 9, p. 7.

<sup>109</sup> Task Force on Combating Human Trafficking Austria, *supra* footnote 107, pp. 3 – 4.

<sup>110</sup> For instance, in the context of return of migrants and victims of trafficking, in the context of awareness raising measures for persons working in diplomatic households with regard to their rights, in the context of awareness raising, in the context of improving the co-operation in the identification process, in the context of counselling and assistance for victims of trafficking and in the context of improving the co-operation between NGOs and law enforcement authorities, see Task Force on Combating Human Trafficking Austria, *supra* footnote 107, pp. 9, 12, 12 – 14, 15 – 16, 16 – 17 and 19.

<sup>111</sup> Task Force on Combating Human Trafficking Austria, *supra* footnote 97, p. 6.

## b) Prevention

Regarding prevention measures, NGOs are involved in research, awareness raising campaigns and trainings.<sup>112</sup> Awareness raising campaigns and trainings are provided for all relevant professional groups, in co-operation with NGOs.<sup>113</sup> For instance, the trainings offered by police experts and NGOs to police officials involved in the identification process<sup>114</sup> and training seminars on identification of child victims in co-operation with ECPAT – Austria can be mentioned.<sup>115</sup> Furthermore, NGOs provided trainings to prosecutors and judges on human trafficking related issues.<sup>116</sup>

## c) Identification

The main actors in the identification process are the law enforcement officials, in particular the special Central Unit on Migrant Smuggling and Trafficking in Human Beings of the Federal Criminal Intelligence Service. Once identified by the police, the female victims of trafficking are referred to the NGO LEFÖ-IBF and the child victims to the Drehscheibe Centre (a body operated by the City of Vienna for child victims).<sup>117</sup> At the time of evaluation, no specialised centre for men was in place. In 2014, the MEN Health's Centre launched the project MEN VIA, providing assistance to male victims of trafficking.<sup>118</sup>

Apart from law enforcement officials, also the NGO LEFÖ-IBF has the power to identify victims. Furthermore, also other NGOs can participate in the process and refer the presumed victim to the police. According to the authorities, there is a good and frequent exchange of information among all the actors involved.<sup>119</sup> It has been argued that a similar structure is needed for male victims.<sup>120</sup> In its report, GRETA highlighted that an area where co-operation needs to be strengthened concerns the detection of victims of trafficking in detention centres. It noted that in fact, only a small number of

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<sup>112</sup> Report concerning the implementation by Austria, GRETA(2011)10, pp. 6 and 19 – 20.

<sup>113</sup> Task Force on Combating Human Trafficking Austria, supra footnote 97, p. 8.

<sup>114</sup> Report concerning the implementation by Austria, GRETA(2011)10, p. 21.

<sup>115</sup> *Ibidem*, p. 23.

<sup>116</sup> *Ibidem*, p. 34.

<sup>117</sup> *Ibidem*, p. 21.

<sup>118</sup> Task Force on Combating Human Trafficking Austria, supra footnote 107, p. 4.

<sup>119</sup> Report concerning the implementation by Austria, GRETA(2011)10, p. 15.

<sup>120</sup> Men's Health Centre MEN, Male victims of human trafficking in Austria, available at [www.men-center.at/typo2013/typo3/fileadmin/resources/downloads/Male\\_victims\\_of\\_human\\_trafficking\\_in\\_Austria.pdf](http://www.men-center.at/typo2013/typo3/fileadmin/resources/downloads/Male_victims_of_human_trafficking_in_Austria.pdf) (consulted on 29 June 2015), p. 10.

NGOs have access to such centres and LEFÖ-IBF in particular does not have access. According to GRETA, the low number of referrals to the police or LEFÖ-IBF, which staff working in the detention facility has to make in case of suspicion, is an indicator for missed identifications. Therefore, GRETA recommended providing access to detention centres to specialised NGOs.<sup>121</sup> The Austrian authorities indicated that access is granted to NGOs providing assistance to asylum seekers and migrants and that trainings have been carried out for the staff working in detention centres.<sup>122</sup> In such trainings, the issue of co-operation with NGOs is specifically addressed.<sup>123</sup>

GRETA further noted that the establishment of a nationwide identification system including child victims of trafficking and also outside of Vienna is needed, with the involvement of NGOs in the development of such a system, in particular for a NRM.<sup>124</sup> It can be positively noted that guidelines for the identification of child victims of trafficking and trainings thereon for all relevant actors, especially in the *Länder*, are being finalised by the Task Force Working Group on Child Trafficking, thus involving NGOs.<sup>125</sup> Also a NRM is in the process of being developed involving NGOs.<sup>126</sup>

#### d) Assistance to victims

In Austria, assistance measures for victims of trafficking differ because of the geographical differences discussed above. At the time of GRETA's evaluation, assistance measures were tailored to female victims and only limited assistance measures were specifically provided for men, in particular there was no safe accommodation for male victims.<sup>127</sup> As already mentioned, this has changed, as in 2014, the Men's Health Centre launched the project MEN VIA, providing assistance to male victims of trafficking, funded by the Austrian Federal Ministry of Labour, Social Affairs and Consumer Protection.<sup>128</sup>

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<sup>121</sup> Report concerning the implementation by Austria, GRETA(2011)10, pp. 22 – 23.

<sup>122</sup> Report submitted by the Austrian authorities on measures taken to comply with Committee of the Parties Recommendation, CP(2013)11, pp. 8 and 9.

<sup>123</sup> Task Force on Combating Human Trafficking Austria, *supra* footnote 97, pp. 42 – 43.

<sup>124</sup> Report concerning the implementation by Austria, GRETA(2011)10, pp. 25 – 26.

<sup>125</sup> Task Force on Combating Human Trafficking Austria, *supra* footnote 97, pp. 12 and 47.

<sup>126</sup> *Ibidem*, p. 42.

<sup>127</sup> Report concerning the implementation by Austria, GRETA(2011)10, p. 24.

<sup>128</sup> Task Force on Combating Human Trafficking Austria, *supra* footnote 107, p. 4; see also MEN VIA: MEN-CENTER website, available at [www.men-center.at/typo2013/typo3/via.html](http://www.men-center.at/typo2013/typo3/via.html) (consulted on 15 May 2015).

There are several NGOs in Austria providing assistance to victims of trafficking; some of them are specialised in assistance for specific categories of victims, such as African women or sex workers.<sup>129</sup> The NGO LEFÖ-IBF has a special role to play, as it is mandated by the State to assist migrant adult women victims of trafficking. An agreement between LEFÖ-IBF and the Federal Ministry of the Interior and the Women's Directorate at the Federal Chancellery has been signed, granting financial support to LEFÖ-IBF.<sup>130</sup> The agreement was welcomed by GRETA and highlighted as a good practice.<sup>131</sup> The assistance offered by LEFÖ-IBF comprises a wide range of services, including safe accommodation, psychological assistance, emergency medical treatment, a personal counsellor for each woman, support in administrative matters, such as in the application for a residence permit, translation and interpretation services. Also integration measures, such as support in accessing the labour market and vocational training, are provided.<sup>132</sup>

#### e) Repatriation and return of victims

Concerning NGO involvement in the repatriation and return of victims, the Austrian government stressed the close co-operation with NGOs in countries of origin, in particular in South East Europe, aiming at raising awareness, improving the socio-economic situation, providing trainings, assisting returning victims to reintegrate and preventing them from being re-trafficked.<sup>133</sup> On a national level, the NGO LEFÖ-IBF assists women who want to return voluntarily to their countries of origin, also through contacts with NGOs in the countries of return.<sup>134</sup> It is also important to mention in this regard that LEFÖ-IBF has developed a list of quality standards in the repatriation process, such as conducting an effective risk assessment based on the individual experience of the victim and considering the victim's special vulnerability.<sup>135</sup>

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<sup>129</sup> Report concerning the implementation by Austria, GRETA(2011)10, p. 25.

<sup>130</sup> *Ibidem*, p. 24.

<sup>131</sup> *Ibidem*, p. 35.

<sup>132</sup> *Ibidem*, p. 25; Task Force on Combating Human Trafficking Austria, *supra* footnote 99, p. 16.

<sup>133</sup> Task Force on Combating Human Trafficking Austria, *supra* footnote 99, p. 12.

<sup>134</sup> Report concerning the implementation by Austria, GRETA(2011)10, p. 30.

<sup>135</sup> *Ibidem*, p. 29.

f) Assistance and support to victims during criminal proceedings

According to an agreement and with financial support of the Ministry of Justice, LEFÖ-IBF offers free psychological help and legal assistance during criminal proceedings.<sup>136</sup> LEFÖ-IBF is also in frequent contact with the police, as police officers have the obligation to inform the victim about the assistance measures provided by LEFÖ-IBF and to inform the NGO about the victim. With the consent of the victim, LEFÖ-IBF can also forward information to the police. There is a 24-hour hotline in place to get in contact with LEFÖ-IBF.<sup>137</sup> MEN VIA offers assistance during criminal proceedings for male victims.<sup>138</sup>

### *3.1.3 Partnership as perceived by NGOs*

Two organisations replied to the survey conducted for the purposes of this research: the Ludwig Boltzmann Institute of Human Rights and an NGO that requested to remain anonymous.

The Ludwig Boltzmann Institute of Human Rights (BIM) is an academic institution with a department on women's rights, child rights and anti-trafficking, mainly conducting research activities on human rights standards concerning trafficking in human beings, on the protection of rights of trafficked persons and on access to justice for trafficked persons and child trafficking. On the question of how NGOs perceive the importance and effectiveness of strategic partnerships in their country, the Institute indicated that it depends on the area of co-operation. As a member of the Task Force, it noted that the decision making process is not always fully transparent, while co-operation in the field of assistance is working, except for some gaps concerning child victims. The Institute is not involved in the identification process and is thus not able to provide information on this issue. As for the risk of drawbacks strategic partnerships can have for the role of NGOs as independent members of civil society and critical watchdogs, the Institute acknowledged that having a contract or agreement, but being critical at the same time, may cause difficulties for an organisation.<sup>139</sup>

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<sup>136</sup> Task Force on Combating Human Trafficking Austria, supra footnote 97, p. 9.

<sup>137</sup> Report concerning the implementation by Austria, GRETA(2011)10, p. 24.

<sup>138</sup> Task Force on Combating Human Trafficking Austria, supra footnote 97, p. 22.

<sup>139</sup> Email from Julia Planitzer, Researcher, Ludwig Boltzmann Institute of Human Rights, 17 May 2015.



An NGO that requested to remain anonymous stated to consider strategic partnerships as very important. However, it noted that usually only the two NGOs LEFÖ-IBF and MEN are fully included, being equipped with a mandate by the government, while other NGOs are only invited to informal exchanges, without a structured procedure for co-operation. The NGO noted the lack of a National Referral Mechanism for trafficked persons, including all categories of victims, describing and formalising the roles, responsibilities and resources of all actors involved, including NGOs. The NGO further indicated to use its membership in the Task Force and related working group to do advocacy work, for instance for the development of a cooperative framework and NRM for trafficked children, which is foreseen to be finished by 2016. As for the drawbacks of strategic partnerships on the role as independent member of civil society, the NGO noted that the potential of drawbacks depends on how the different roles and responsibilities are defined in a NRM. According to the same NGO, in the present situation where no NRM is in place, difficulties for their independent work do exist for NGOs holding a mandate from the government for the provision of services. As general comments concerning the co-operation and strategic partnerships between anti-trafficking NGOs and State authorities and public officials, the NGO stated that more pressure should be made by the Council of Europe on national governments to develop formalised procedures for co-operation and to establish independent national monitoring structures.<sup>140</sup>

#### *3.1.4 Existing challenges*

A general issue identified by GRETA in its evaluation report was the insufficient funding for NGOs to carry out their work.<sup>141</sup>

Apart from that, one of the main challenges in Austria is to ensure a coordinated nationwide response to overcome the differences between the *Länder*, also in terms of NGO presence. Another challenge is to bridge the gap between the different categories of victims, also due to the different status of the major NGOs representing the various categories. While LEFÖ-IBF for women has a very strong presence and an improvement in the situation for men can be noted with the launch of the project MEN

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<sup>140</sup> Email from anonymous NGO, 15 May 2015.

<sup>141</sup> Report concerning the implementation by Austria, GRETA(2011)10, p. 15.

VIA, there is no NGO providing assistance to children (leaving the task to the Drehscheibe Centre, operated by the City of Vienna). Furthermore, the absence of a NRM defining the roles of the various actors is felt by NGOs.

## **3.2 Italy**

### *3.2.1 Background information*

Italy is a country of transit and destination for victims of human trafficking. The majority of victims are women and the most frequent forms of exploitation are sexual exploitation and labour exploitation for men, but also cases of forced begging, forced criminality, domestic servitude and trafficking for the purpose of organ removal have been registered.<sup>142</sup> With regard to children, it has to be noted that according to official data, they represent only approximately 15% of victims, but that such a low percentage is probably due to the lack of a coherent data collection system able to provide correct information.<sup>143</sup>

Italy's national legal framework has been improved in recent years, in order to adapt to its international obligations. In particular, the Legislative Decree No. 24/2014 transposing the European Union Directive 2011/36/EU has to be mentioned,<sup>144</sup> as it provides for the adoption of a National Action Plan, including measures on prevention, assistance, protection, identification, the establishment of a national referral mechanism and defining the roles to play by the governmental and other non-governmental actors.<sup>145</sup> The mentioned decree foresees the adoption of the NAP within three months of its entry into force.<sup>146</sup> However, even though the decree entered into force on 28

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<sup>142</sup> Report concerning the implementation by Italy, GRETA(2014)18, p. 11.

<sup>143</sup> UN General Assembly, Report of the Special Rapporteur on trafficking in persons, especially women and children, Joy Ngozi Ezeilo, Addendum: Mission to Italy, A/HRC/26/37/Add.4, 1 April 2014, available at [www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session26/Documents/A-HRC-26-37-Add4\\_en.doc](http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session26/Documents/A-HRC-26-37-Add4_en.doc). (consulted on 22 June 2015), p. 5.

<sup>144</sup> Legislative Decree No. 24 of 4 March 2014 laying down the transposition of Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, replacing Council Framework Decision 2002/629/JHA, available (in Italian) at [www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto-legislativo:2014-03-04;24](http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto-legislativo:2014-03-04;24) (consulted on 10 May 2015).

<sup>145</sup> Report concerning the implementation by Italy, GRETA(2014)18, pp. 12 – 13.

<sup>146</sup> Article 9 Legislative Decree No. 24 of 4 March 2014.

March 2014 and therefore the time limit has expired, no action plan has been adopted so far and is strongly needed.<sup>147</sup>

Regarding the institutional framework, there are several actors involved in the fight against trafficking. The Inter-ministerial Commission for the support of victims of trafficking, violence and serious exploitation was composed of representatives of various ministries and put in charge of supervising and planning the resources for assistance programmes. Its mandate expired in 2013 and its functions were taken over by the Department for Equal Opportunities (DEO), the governmental body in charge of co-ordinating and realising the national policies in the field of trafficking.<sup>148</sup> Despite its presence, GRETA expressed concerns about the absence of a national co-ordination structure that includes representatives of all relevant bodies, both governmental and non-governmental, and urged Italy to improve the institutional framework, stressing in particular the importance of involving NGOs.<sup>149</sup> An important figure within the law enforcement agencies is the Chief of Police (*Questore*) of every police headquarter (*Questura*) in the provinces, deciding on the issuing of residence permits to victims of trafficking, as will be further explained below. Also the regional and local authorities play a key role. In fact, the authorities of Italy's 20 regions and 109 provinces are central to the provision of assistance to victims, also with regard to co-financing assistance programmes and enabling local networks for co-ordinating anti-trafficking efforts. In addition, the municipality of Venice offers a nationwide anti-trafficking hotline.<sup>150</sup>

### 3.2.2 Co-operation with NGOs

In Italy, NGOs are a key component of anti-trafficking efforts, especially with regards to the provision of assistance to victims. They may take various forms, such as non-profit organisations, associations or social cooperatives. The majority of them works on a regional or local level, but they are also connected through national or inter-regional

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<sup>147</sup> Email from Simona Marchisella and Cristina Garavoglia, Responsible for the Project on Prostitution and Human Trafficking, Gruppo Abele onlus, 6 May 2015.

<sup>148</sup> Report concerning the implementation by Italy, GRETA(2014)18, pp. 13 – 14.

<sup>149</sup> *Ibidem*, p. 7.

<sup>150</sup> *Ibidem*, pp. 14 – 15.

networks.<sup>151</sup> The Co-ordinating National Community of Hospitality network (Coordinamento Nazionale Comunità di Accoglienza - CNCA), for instance, connects a large number of NGOs.<sup>152</sup> Important actors are also the social services of the municipalities and provinces, often enabling local networks that involve the police, prosecutors and NGOs. Very interesting in this regard is the initiative by the Department of Public Security of the Ministry of the Interior and the National Anti-Mafia Directorate to strengthen local co-operation networks among institutions, judicial authorities, law enforcement agencies and NGOs, signing the “Memorandum of Understanding on the guidelines for the co-ordination of activities to combat trafficking in human beings”.<sup>153</sup>

a) Involvement on the institutional level

As for the participation of NGOs in institutional settings, it has to be noted that NGOs could occasionally take part in meetings of the Inter-ministerial Commission, but they were not constant members.<sup>154</sup> This was also due to the fact that the Commission was responsible for selecting the assistance programmes to which to grant funding.<sup>155</sup> According to the Italian authorities, the NAP to be adopted foresees the formation of an Inter-Institutional Committee that also includes representatives of civil society.<sup>156</sup>

b) Prevention

As for prevention measures, trainings are provided for State Police officers, prosecutors, border officials, immigration officials and other bodies, in co-operation with several relevant actors, including NGOs. GRETA welcomed these initiatives, but noted that trainings took place on a local level, without there being a systematic approach for trainings, which would be of fundamental importance especially for public officials who get in direct contact with victims, in order to ensure a correct identification, assistance and effective protection of the victims.<sup>157</sup>

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<sup>151</sup> *Ibidem*, p. 15.

<sup>152</sup> The whole network comprises around 250 organisations working in various thematic fields, one of which is human trafficking; see Coordinamento Nazionale Comunità di Accoglienza website, available at [www.cnca.it/il-cnca/chi-siamo](http://www.cnca.it/il-cnca/chi-siamo) (consulted on 22 June 2015).

<sup>153</sup> Report concerning the implementation by Italy, GRETA(2014)18, p. 21.

<sup>154</sup> *Ibidem*, p. 13.

<sup>155</sup> *Ibidem*, p. 21.

<sup>156</sup> *Ibidem*, p. 14.

<sup>157</sup> *Ibidem*, pp. 24 – 25.

NGOs are also involved in research projects.<sup>158</sup> Regarding awareness-raising, there are a number of initiatives on the local and regional levels, where NGOs are very actively involved. GRETA welcomed these initiatives, but noted the absence of awareness campaigns on a national level. Therefore, GRETA urged the Italian authorities to develop a nationwide campaign, involving NGOs in its planning and implementation.<sup>159</sup>

### c) Identification

As far as the identification process is concerned, it has to be noted that there are no national guidelines or procedures agreed upon. Several Memoranda of Understanding (MoU) on regional or local level lay down the steps to be taken to identify victims, the modalities of co-operation and the roles to be played by the various actors on the local level, often including a list of human trafficking indicators. These Memoranda are considered to be examples of good practice and a sort of local “referral mechanism”, but they cannot substitute a national structure for identification, for example a National Referral Mechanism.<sup>160</sup> However, victims can be detected by various actors, including law enforcement officials, NGO staff doing outreach work or social services. Once gathered the information and the presumed victim’s depositions, law enforcement officers and local services decide whether the victim’s story corresponds to the criteria provided for by law. Victims are then referred to NGOs by the law enforcement agencies or local services, or also by the staff working for the helpline established by the municipality of Venice.<sup>161</sup> In this regard, GRETA recalls the report on Italy of the UN Special Representative on trafficking in persons, especially women and children, in which the Special Representative noted that the law enforcement officials often do not co-operate in a satisfactory manner, as they tend to ask the victim’s deposition without contacting social workers, including staff from NGOs, and thus making identification and the provision of assistance dependent on the victim’s co-operation with the law

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<sup>158</sup> *Ibidem*, p. 26.

<sup>159</sup> *Ibidem*, p. 29.

<sup>160</sup> *Ibidem*, p. 32; an example of such a Memorandum of Understanding is the “Protocol of Teramo” elaborated jointly by the Procura of Teramo, the NGO On the Road, the Immigration Office of the *Questura* of Teramo and the other police forces and signed at the District Court of Teramo on 28 April 2010, entitled “Guidelines for approaching possible victims of human trafficking and severe exploitation”, available (in Italian) at [www.unimc.it/af/archivio%20master/08/migranti09/materiali-didattici/politiche-della-reintegrazione-sociale-prof.-bufo/ProtocolloIdentifVittimeTratta-ProcuraTeramo.pdf](http://www.unimc.it/af/archivio%20master/08/migranti09/materiali-didattici/politiche-della-reintegrazione-sociale-prof.-bufo/ProtocolloIdentifVittimeTratta-ProcuraTeramo.pdf) (consulted on 18 May 2015).

<sup>161</sup> Report concerning the implementation by Italy, GRETA(2014)18, p. 33.

enforcement authorities.<sup>162</sup> GRETA noted that NGOs in Italy are very actively engaged in detecting victims of trafficking, through outreach and street work, screening announcements in newspapers and on the Internet and contacting the persons concerned via phone call or interacting with workers in order to detect cases of labour exploitation.<sup>163</sup>

#### d) Assistance to victims

As far as assistance is concerned, Italian law foresees two types of measures: short-term assistance measures (so-called article 13 measures)<sup>164</sup> and long-term assistance measures (the so-called article 18 measures).<sup>165</sup> Both types of measures are provided by NGOs or other bodies on a regional or local level. The NGOs in charge of implementing assistance projects are selected by the Department for Equal Opportunities (DEO) through an annual call for tenders.<sup>166</sup> In order to apply, NGOs need a local public partner entity, for instance the municipalities or provinces. The projects are then financed in part by the DEO and in part by the NGO's partner entity.<sup>167</sup> GRETA noted that the DEO does not have sufficient financial resources.<sup>168</sup>

The short-term measures include measures for the initial support of the victims to help them recover from their traumatic experience, such as accommodation, health care and psychological and legal counselling. The article 18 measures, on the other hand, are measures of special protection and integration for victims of serious exploitation or whose safety is in danger. These programmes include services such as health care, psychological and legal support, secure accommodation, education programmes and

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<sup>162</sup> UN General Assembly, *supra* footnote 143, pp. 12 – 13.

<sup>163</sup> Report concerning the implementation by Italy, GRETA(2014)18, p. 33.

<sup>164</sup> Provided for in article 13 of Law No. 228/2003 on measures against trafficking in persons, available (in Italian) at [www.normattiva.it/uri-res/N2Ls?urn:nir:stato:legge:2003-08-11;228!vig=](http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:legge:2003-08-11;228!vig=) (consulted on 10 May 2015) and in the Presidential Decree No. 237/2005 on implementation of article 13 of Law No. 228/2003, available at <http://gazzette.comune.jesi.an.it/2005/270/1.htm> (consulted on 10 May 2015).

<sup>165</sup> Provided for in article 18 of Legislative Decree No. 286/1998 on the consolidated text of provisions regulating immigration and the rules relating to the status of foreign nationals, available at [www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legislativo:1998-07-25;286!vig=](http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legislativo:1998-07-25;286!vig=) (consulted on 10 May 2015) and in the Presidential Decree No. 394/1999 regulating the implementation of the Consolidated Immigration Act, available at [www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legislativo:1999-08-31;394](http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legislativo:1999-08-31;394) (consulted on 10 May 2015).

<sup>166</sup> Report concerning the implementation by Italy, GRETA(2014)18, p. 14.

<sup>167</sup> The division is 80% by the DEO and 20% by the local partner for short-term measures and 70% - 30% for long-term assistance measures; Report concerning the implementation by Italy, GRETA(2014)18, p. 37.

<sup>168</sup> *Ibidem*, p. 21.

vocational training. To access the programmes and get a residence permit for social protection, the victims can take two paths: the so-called “social path” or the “judicial path”. The latter refers to the case when the prosecutor in the criminal proceeding asks for a residence permit for the victim who co-operates. The social path, on the other hand, is more interesting for the purpose of this work, as it involves NGOs. In fact, in this case, it can be an NGO – along with public social services – that makes the request for a permit to the *Questore* on behalf of the victim for reasons of social protection.<sup>169</sup> The victims do not have to co-operate with the law enforcement agencies directly, but they need to provide information through the social services or NGOs. However, GRETA was informed that many *Questore* try to redirect the victims to the judicial path in order to get them to co-operate in the criminal proceedings.<sup>170</sup> As can be seen, NGOs in Italy play an important role also in the process for issuing residence permits to victims of trafficking, maybe also for informing victims about the social path and for putting pressure on the *Questore* to respect it.

During its country visit, GRETA visited several shelters run by local NGOs providing article 18 assistance programmes. In its report, GRETA underlined the high quality of the services provided in the visited shelters and generally commended the work of NGOs on the local level. However, issues were raised with regard to the funding of the programmes. As already mentioned, the assistance programmes are financed on an annual basis. Therefore, NGOs face the problem of not being able to plan in advance and in a sustainable manner. In addition, there were cases of delayed payment of the State’s funding or of no payment at all from the local authorities. GRETA noted that delayed or missed payments can cause serious problems to NGOs and therefore to an effective provision of assistance to victims of trafficking. It stressed the urgent need to reevaluate and adapt the system of funding to real needs, especially providing more long-term funding.<sup>171</sup>

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<sup>169</sup> *Ibidem.*, pp. 37 – 38.

<sup>170</sup> *Ibidem.*, p. 41.

<sup>171</sup> *Ibidem.*, pp. 38 – 39.

e) Repatriation and return of victims

NGOs are also involved in the repatriation and return of victims, as they carry out assisted voluntary return programmes. The funding therefore is provided through the assistance programmes.<sup>172</sup>

f) Assistance and support to victims during criminal proceedings

In presence of the victim's consent, NGOs can participate in criminal proceedings as a civil party and can exercise the victim's procedural rights, giving a "notice of intervention" to the proceeding authority.<sup>173</sup> NGOs can also participate as third parties.<sup>174</sup>

### 3.2.3 Partnership as perceived by NGOs

The two NGOs that completed the questionnaire prepared for this research are Gruppo Abele and The Salvation Army Italy.

The Salvation Army Italy is a national office of the International Salvation Army network and is mainly engaged in awareness raising activities and trainings for members of schools, churches, state departments and others. On the question as to how NGOs perceive the importance and effectiveness of strategic partnerships, the Salvation Army Italy replied that they were essential. As to drawbacks on the role as independent member of civil society and critical watchdog, the Salvation Army stated that it does not see any issues regarding this at all. It has to be noted, however, that the Salvation Army itself is not involved in any strategic partnerships, at least not yet, as stated by the NGO.<sup>175</sup>

The second NGO, the NGO Gruppo Abele onlus, is a local NGO based in Turin. It runs reception facilities and a shelter for victims of human trafficking and provides several services, such as accompaniment to social sanitary services, prevention activities against sexually transmitted infections and information campaigns on how to exit from exploitative abuse. Gruppo Abele onlus noted that strategic partnerships are really important and pointed to the necessity of a National Action Plan in Italy. This NGO

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<sup>172</sup> *Ibidem*, p. 44.

<sup>173</sup> *Ibidem*, p. 47.

<sup>174</sup> Reply from Italy to the Questionnaire, GRETA(2014)2, p. 29.

<sup>175</sup> Email from Estelle Blake, Head of the Anti-trafficking Unit, The Salvation Army Italy, 19 May 2015.



indicated that it is involved in several networks and projects involving also public authorities on a European, national and local level,<sup>176</sup> for instance in the project NO TRATTA.<sup>177</sup> As for the question whether the NGO is involved in the identification process, Gruppo Abele stated that it is involved, without providing further information. It also did not comment on the question of the possible drawbacks such strategic partnerships can have for the role as independent member of civil society.<sup>178</sup>

#### *3.2.4 Existing challenges*

As a general and concluding remark, it can be noted that NGOs are key actors in Italy's anti-trafficking efforts, but that they operate mainly on a regional and local level, making the anti-trafficking response on prevention, identification and assistance rather fragmented and dependent on a series of determining factors, among which also the degree to which NGOs are present, their capacities and activities. Here, the above mentioned issues regarding insufficient and inadequate funding for NGOs also have to be kept in mind. The adoption of a national strategy or action plan, with the involvement of NGOs in the development and implementation, is therefore urgently needed.<sup>179</sup> Also the establishment of a national co-ordination structure and the development of a National Referral Mechanism are needed in order to ensure a comprehensive and co-ordinated response on the national level.

### **3.3 United Kingdom**

#### *3.3.1 Background information*

The United Kingdom (UK) is mainly a country of destination for victims of trafficking. The prevalent form of exploitation is sexual exploitation, but cases of labour exploitation and domestic servitude have also been reported. In the UK, not only foreigners have been identified as victims of trafficking, but also UK nationals. The

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<sup>176</sup> Email from Simona Marchisella and Cristina Garavoglia, Responsible for the Project on Prostitution and Human Trafficking, Gruppo Abele onlus, 6 May 2015.

<sup>177</sup> For more information, see NO TRATTA website, available at [www.notrattra.it/](http://www.notrattra.it/) (consulted on 31 May 2015).

<sup>178</sup> Email from Simona Marchisella and Cristina Garavoglia, Responsible for the Project on Prostitution and Human Trafficking, Gruppo Abele onlus, 6 May 2015.

<sup>179</sup> Report concerning the implementation by Italy, GRETA(2014)18, p. 49.

majority of victims are women, but there is a growing number of cases of male and child victims<sup>180</sup> mainly exploited in cannabis farms.<sup>181</sup>

The legal framework in the UK is complex, due to the fact that several areas relevant for anti-trafficking policy are devolved to the Parliaments and administrations of Wales, Scotland and Northern Ireland. For instance, criminal law and victim care, as well as education and health linked to prevention and assistance, are devolved matters. There are, however, also some areas that are reserved to the UK Parliament and Government, which are also legislating for England in the areas of devolved powers. Among the reserved areas, the matters of border and immigration control and of identification of victims are of particular relevance.<sup>182</sup>

Important developments were the adoption of the first Action Plan on Tackling Human Trafficking in 2007, laying down measures in the four areas of prevention, prosecution, protection and specific measures on child trafficking,<sup>183</sup> last updated in 2009.<sup>184</sup> In addition, the UK Government's Human Trafficking Strategy needs to be mentioned.<sup>185</sup>

Another very important development was the establishment of a National Referral Mechanism in 2009, in response to the UK's ratification of the Convention. The Mechanism formalises the identification procedure and provides a framework for all actors involved, in order to facilitate co-operation and the referral of victims to support

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<sup>180</sup> Report concerning the implementation by the UK, GRETA(2012)6, p. 13.

<sup>181</sup> The Guardian, 3,000 children enslaved in Britain after being trafficked from Vietnam, 23 May 2015, available at [www.theguardian.com/global-development/2015/may/23/vietnam-children-trafficking-nail-bar-cannabis](http://www.theguardian.com/global-development/2015/may/23/vietnam-children-trafficking-nail-bar-cannabis) (consulted on 24 June 2015).

<sup>182</sup> Report concerning the implementation by the UK, GRETA(2012)6, p. 14.

<sup>183</sup> Home Office and Scottish Executive, UK Action Plan on Tackling Human Trafficking, March 2007, available at [www.ungift.org/doc/knowledgehub/resource-centre/Governments/UK\\_Action\\_Plan\\_to\\_Combat\\_Human\\_Trafficking\\_en.pdf](http://www.ungift.org/doc/knowledgehub/resource-centre/Governments/UK_Action_Plan_to_Combat_Human_Trafficking_en.pdf) (consulted on 12 May 2015).

<sup>184</sup> Home Office and Scottish Executive, Update to the UK Action Plan on Tackling Human Trafficking, October 2009, available at [www.ungift.org/doc/knowledgehub/resource-centre/Governments/Update\\_to\\_the\\_UK\\_Action\\_Plan\\_on\\_Tackling\\_Human\\_Trafficking\\_en\\_2009.pdf](http://www.ungift.org/doc/knowledgehub/resource-centre/Governments/Update_to_the_UK_Action_Plan_on_Tackling_Human_Trafficking_en_2009.pdf) (consulted on 12 May 2015).

<sup>185</sup> HM Government, Human Trafficking: The Government's Strategy, available at [www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/97845/human-trafficking-strategy.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/97845/human-trafficking-strategy.pdf) (consulted on 13 May 2015).

services.<sup>186</sup> An independent review of the NRM was carried out in 2014, making recommendations on several issues,<sup>187</sup> which will be discussed further below.

Other very important recent developments are the adoption of the Modern Slavery Strategy<sup>188</sup> and the Modern Slavery Act<sup>189</sup> for England and Wales, the Human Trafficking and Exploitation (Scotland) Bill, foreseeing the preparation of a Scottish Anti-Trafficking Strategy, and the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015, providing for the development of an annual strategy,<sup>190</sup> in addition to the action plans already adopted by Northern Ireland.<sup>191</sup>

As to the institutional framework, there are several institutions playing a role in anti-trafficking efforts in the UK and separate ones in Scotland, Northern Ireland and Wales. As a general remark, GRETA noted the effects of the political change in 2010 on the institutional framework. On the UK level, a relevant institution is, first of all, the Inter-Departmental Ministerial Group (IDMG), responsible for co-ordinating policies and actions taken by the UK Government, supervising compliance with international standards and for monitoring developments in human trafficking.<sup>192</sup> In addition, the above mentioned Modern Slavery Act has introduced the figure of the UK-wide Independent Anti-Slavery Commissioner, with the function of encouraging good

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<sup>186</sup> Report concerning the implementation by the UK, GRETA(2012)6, p. 17.

<sup>187</sup> Report submitted by the British authorities on measures taken to comply with Committee of the Parties Recommendation, CP(2015)12, pp. 17 – 18.

<sup>188</sup> HM Government, Modern Slavery Strategy, November 2014, available at [www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/383764/Modern\\_Slavery\\_Strategy\\_FINAL\\_DEC2015.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/383764/Modern_Slavery_Strategy_FINAL_DEC2015.pdf) (consulted on 30 June 2015).

<sup>189</sup> Modern Slavery Act 2015, available at [www.legislation.gov.uk/ukpga/2015/30/pdfs/ukpga\\_20150030\\_en.pdf](http://www.legislation.gov.uk/ukpga/2015/30/pdfs/ukpga_20150030_en.pdf) (consulted on 30 June 2015).

<sup>190</sup> Report submitted by the British authorities on measures taken to comply with Committee of the Parties Recommendation, CP(2015)12, pp. 1 and 4.

<sup>191</sup> See Department of Justice and Organised Crime Task Force, Northern Ireland Human Trafficking Action Plan 2013 – 14, available at [www.octf.gov.uk/getattachment/e91312f6-2f54-4499-bc6e-6a7e2ad9eb70/Annual-Human-Trafficking-Action-Plan-2013-14.aspx](http://www.octf.gov.uk/getattachment/e91312f6-2f54-4499-bc6e-6a7e2ad9eb70/Annual-Human-Trafficking-Action-Plan-2013-14.aspx) (consulted on 13 May 2015); Department of Justice and Organised Crime Task Force, Northern Ireland Human Trafficking and Exploitation Action Plan 2014 – 15, available at [www.dojni.gov.uk/index/publications/publication-categories/pubs-policing-community-safety/community-safety/organised-crime/northern-ireland-human-trafficking-and-slavery-action-plan-2014-15.pdf](http://www.dojni.gov.uk/index/publications/publication-categories/pubs-policing-community-safety/community-safety/organised-crime/northern-ireland-human-trafficking-and-slavery-action-plan-2014-15.pdf) (consulted on 13 May 2015).

<sup>192</sup> Report concerning the implementation by the UK, GRETA(2012)6, p. 17.

practice in the areas of prevention, identification of victims and prosecution, working closely also with members of civil society.<sup>193</sup>

The overall responsibility for the UK's anti-trafficking strategy lies with the Home Office. There are a number of Home Office departments and other affiliated bodies involved. For instance, the UK Human Trafficking Centre (UKTHC) needs to be mentioned.

There was also a specific institution responsible for monitoring the UK's compliance with the Council of Europe Convention on Action against Trafficking in Human Beings: the Strategic Monitoring Group (SMG), due to the political changes then transformed into the NRM Oversight Group, with the focus on monitoring the functioning of the NRM. The composition of the two Groups is almost the same, bringing together various stakeholders, among which also several NGOs.<sup>194</sup>

As already mentioned, apart from these institutions on the UK level, there are separate institutions in Scotland, Northern Ireland and Wales.<sup>195</sup> Particularly interesting is the Anti-Human Trafficking Co-ordinator in Wales, having competences in several fields of action.<sup>196</sup>

### 3.3.2 Co-operation with NGOs

In the UK, numerous NGOs are active in the fight against trafficking in human beings.

#### a) Involvement on the institutional level

As to their involvement on an institutional level, it has to be noted that they have the possibility to participate in various occasions. The Home Office highlighted on several occasions the importance of co-operating with NGOs and the need to further strengthen such co-operation.<sup>197</sup> NGOs were invited to participate in several workshops and meetings with a number of different stakeholders for discussing and developing the new strategy. In addition, the Home Office held separate meetings with a smaller number of

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<sup>193</sup> Report submitted by the British authorities on measures taken to comply with Committee of the Parties Recommendation, CP(2015)12, p. 3.

<sup>194</sup> Report concerning the implementation by the UK, GRETA(2012)6, pp. 17 – 19.

<sup>195</sup> Due to the limited scope of present work, these institutions will not be addressed; for more information, see Report concerning the implementation by the UK, GRETA(2012)6, pp. 21 – 22.

<sup>196</sup> Report concerning the implementation by the UK, GRETA(2012)6, p. 22.

<sup>197</sup> *Ibidem*, p. 16.

NGOs to discuss particular topics.<sup>198</sup> NGOs are also brought together with other stakeholders, such as law enforcement officials or trade unions, in the thematic working groups set up by the UKHTC.<sup>199</sup> Furthermore, the UKHTC works with support providing NGOs, involves them in multi-agency forums (for example, the Human Trafficking and London 2012 Network)<sup>200</sup> and has established a strategic level NGO advisory forum.<sup>201</sup> Specific NGOs (namely The Salvation Army, Trafficking Awareness Raising Alliance of Glasgow Community and Safety – TARA, Migrant Help, Barnardo’s and the Child Trafficking Information and Advice Line of the National Society for the Prevention of Cruelty to Children; the latter two being NGOs specialised on child trafficking) were also part of the Strategic Monitoring Group and are now part of the NRM Oversight Group, serving as a forum of discussion and advice.<sup>202</sup>

Also the Welsh Anti-Human Trafficking Co-ordinator has positive experiences in co-operating with NGOs.<sup>203</sup> Important to mention is also the Wales Anti Human Trafficking Leadership Group and Delivery Plan, chaired by the Community Safety Division in the Welsh Government and bringing together key strategic decision makers from governmental and non-governmental bodies, including the Wales Anti Human Trafficking NGO Fora and the NGO BAWSO. The aim of the group is to share information, inform the Minister and direct policy-making in Wales.<sup>204</sup>

With regard to Northern Ireland, GRETA underlined the need for formalised arrangements with NGOs.<sup>205</sup> As outlined in the UK Government’s comments on the evaluation report, not forming part of GRETA’s analysis, consultation has already taken place and will be discussed further on the occasion of the EU’s Anti-Trafficking Day.<sup>206</sup>

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<sup>198</sup> *Ibidem*, p. 20.

<sup>199</sup> *Ibidem*, p. 18.

<sup>200</sup> For more information, see Mayor of London Office for Policing and Crime, Request for DMPC Decision – DMPCD 2012-102, Title: Human Trafficking and London 2012 Network, June 2012, available at [www.london.gov.uk/sites/default/files/DMPCD%202012%20102%20Human%20Trafficking%20and%20London%202012%20Network\\_0.pdf](http://www.london.gov.uk/sites/default/files/DMPCD%202012%20102%20Human%20Trafficking%20and%20London%202012%20Network_0.pdf) (consulted on 18 May 2015).

<sup>201</sup> Report concerning the implementation by the UK, GRETA(2012)6, p. 30.

<sup>202</sup> *Ibidem*, p. 19.

<sup>203</sup> *Ibidem*, p. 22.

<sup>204</sup> Welsh Government, Annual Report of the Welsh Government’s Anti Human Trafficking Co-ordinator 2013, November 2013, available at [www.senedd.assembly.wales/documents/s24975/CELG4-08-14%20Paper%202a.pdf](http://www.senedd.assembly.wales/documents/s24975/CELG4-08-14%20Paper%202a.pdf) (consulted on 13 May 2015), p. 14.

<sup>205</sup> Report concerning the implementation by the UK, GRETA(2012)6, p. 31.

<sup>206</sup> *Ibidem*, p. 97.

In fact, on that occasion, the Minister of Justice announced the establishment of a new engagement group on human trafficking with the aim to improve communication and co-operation between governmental and non-governmental bodies.<sup>207</sup> In the field of prosecution and investigation, for instance, the Public Prosecution Service proposed its new policy on prosecuting human trafficking cases in 2013, the publication of which was followed by a round of consultation also with NGOs.<sup>208</sup>

In Scotland, the Inter-Agency Working Group on Trafficking set up by the Glasgow City Council works on the issue of trafficking of women for sexual exploitation, bringing together several stakeholders, among which also the NGO Scottish Refugee Council. In addition, the Scottish Government has good contacts with the NGO sector, asking for advice and feedback in the development of anti-trafficking measures.<sup>209</sup>

NGOs in the UK are very well organised also amongst themselves. Several theme-led initiatives have been taken up involving a wide range of NGOs and co-ordinating their efforts in, for instance, awareness raising or tackling demand. These engagement groups were welcomed by GRETA.<sup>210</sup> Very important is the Anti-Trafficking Monitoring Group, set up by nine NGOs (Amnesty International UK, Anti-Slavery International, Black Association of Women Step Out, Bristol Counter-Trafficking Coalition, ECPAT UK, Helen Bamber Foundation, Kalayaan, POPPY Project and the Trafficking Awareness Raising Alliance of Glasgow Community and Safety – TARA), discussing the UK's implementation of the CoE Convention.<sup>211</sup> On the issue of co-operation among the UK Government and NGOs, the Anti-Trafficking Monitoring Group stated that involvement of NGOs already took place when drafting the Action Plan in the form of consultation, but noted that NGOs complained that their views and inputs were ignored on several occasions. Generally, NGOs expressed the feeling that they are not part of a “strategic partnership” with the Government. However, some single NGOs,

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<sup>207</sup> See Northern Ireland Executive, Justice Minister stresses importance of tackling trafficking together, 18 October 2012, available at [www.northernireland.gov.uk/news-doj-181012-justice-minister-stresses](http://www.northernireland.gov.uk/news-doj-181012-justice-minister-stresses) (consulted on 19 May 2015).

<sup>208</sup> The Anti-Trafficking Monitoring Group, *Hidden in plain sight: Three years on: updated analysis of UK measures to protect trafficked persons*, October 2013, available at [www.amnesty.org.uk/sites/default/files/atmg\\_hidden\\_in\\_plain\\_sight\\_oct\\_2013.pdf](http://www.amnesty.org.uk/sites/default/files/atmg_hidden_in_plain_sight_oct_2013.pdf) (consulted on 15 May 2015), p. 54.

<sup>209</sup> Report concerning the implementation by the UK, GRETA(2012)6, p. 31.

<sup>210</sup> *Ibidem*, p. 30.

<sup>211</sup> *Ibidem*, p. 20.

such as the POPPY Project, work more closely with governmental departments, receiving funding and having their expertise acknowledged.<sup>212</sup> The Group stressed that “strategic partnership” should mean at least consultation and consideration of the inputs, explaining the reasons for eventual omissions.<sup>213</sup> The Group further reported that only few NGOs considered themselves as equal partners to the Government, in particular due to the absence of NGO representation in the Government’s strategic groups. Another point of criticism concerned the fact that co-operation took place mainly in large cities, such as London, Glasgow and Belfast, but was rather limited or completely absent with regard to NGOs working in other areas.<sup>214</sup>

As can be seen, NGOs can participate in policy development on various occasions, but the degree to which an effective involvement and the inclusion of their input on an equal footing is ensured is questioned by NGOs themselves.

#### b) Prevention

As far as prevention measures are concerned, NGOs carry out numerous awareness raising campaigns on the local level. However, NGOs were not consulted for a campaign carried out by the UKHTC on the national level, even though there is a specific working group on prevention that NGOs are a part of. GRETA therefore recommended a stronger involvement of NGOs in the development of campaigns. Nevertheless, there have been also several occasions where NGOs were involved in awareness raising campaigns. NGOs are very active also in research and awareness raising work to discourage demand. The authorities indicated that they are planning to implement several measures to discourage demand, in co-operation with NGOs, which was welcomed by GRETA. NGOs also carry out initiatives for vulnerable groups, such as migrant workers or sexually exploited girls and women. However, these initiatives were locally limited, had limited capacity and insecure funding. In order to fill these

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<sup>212</sup> The Anti-Trafficking Monitoring Group, *Wrong Kind of Victim? One year on: an analysis of UK measures to protect trafficked persons*, June 2010, available at [www.antislavery.org/includes/documents/cm\\_docs/2010/a/1\\_atmg\\_report\\_for\\_web.pdf](http://www.antislavery.org/includes/documents/cm_docs/2010/a/1_atmg_report_for_web.pdf) (consulted on 15 May 2015), pp. 125 – 126.

<sup>213</sup> The Anti-Trafficking Monitoring Group, *All Change: Preventing Trafficking in the UK*, April 2012, available at [www.ecpat.org.uk/sites/default/files/atmg\\_all\\_change\\_2012.pdf](http://www.ecpat.org.uk/sites/default/files/atmg_all_change_2012.pdf) (consulted on 15 May 2015), p. 39.

<sup>214</sup> *Ibidem*), p. 42.

gaps, the British authorities were encouraged to take further steps in this regard and provide adequate funding, also for NGO led initiatives.<sup>215</sup>

### c) Identification

As already mentioned, in 2009 the UK established a National Referral Mechanism (NRM) to facilitate and co-ordinate the efforts of all stakeholders in the identification of victims of trafficking and their referral to support and assistance. The identification procedure starts with the referral of the person who is a potential victim of trafficking by the so-called “First Responder”; the case is then considered by an official from the competent authority, first issuing the so-called reasonable grounds decision and then the conclusive one. For the scope of present work, the initial phase is of particular importance, as the First Responders referred to are frontline staff from specifically designated organisations. Also NGOs can be designated, as is the case for the NGOs Eaves Housing for Women POPPY Project, Trafficking Awareness Raising Alliance (TARA), Migrant Help, Kalayaan, Medaille Trust, The Salvation Army, Unseen UK, Barnardo’s and the Child Trafficking Information and Advice Line of the National Society for the Prevention of Cruelty to Children<sup>216</sup> and – since recently – the NGOs Black Association of Women Step Out (BAWSO) and New Pathways.<sup>217</sup>

In its report, GRETA pointed out several critical points regarding the NRM. Also the fact that First Responders are only involved in the initial referral stage, while the decision itself lies with the Competent Authorities, is seen to have negative effects. NGOs complained that their points of view and experience are not given sufficient weight. In addition, in case the First Responder is also the Competent Authority, there is only one stakeholder involved in the procedure, precluding an identification procedure with the involvement of different actors. There were also cases where support organisations have not referred persons to the NRM because of various reasons, such as the victims’ fear of getting in contact with the authorities because of their uncertain immigration status.

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<sup>215</sup> Report concerning the implementation by the UK, GRETA(2012)6, pp. 42 – 46.

<sup>216</sup> *Ibidem*, p. 49.

<sup>217</sup> The Anti-Trafficking Monitoring Group, *supra* footnote 208, p. 12.



Another challenge is the identification of victims of trafficking in detention centres, where they only get into contact with authorities. Therefore, GRETA recommended granting access to such facilities to specialised NGOs.<sup>218</sup> The British authorities indicated to consider this point.<sup>219</sup>

However, GRETA also pointed out good practices on the subject. For example, the police involved NGO representatives in police operations on cannabis farms in South-West England, in order to assist them in the identification of potential victims.<sup>220</sup>

As already mentioned, the NRM was subject of an independent review, making several recommendations. A particularly relevant proposal is the strengthening of the role of the First Responders by introducing professionalised Slavery Safeguarding Leads.<sup>221</sup> The British authorities indicated that they are committed to follow up on the proposals. NGOs indicated that it would be better if public bodies took up the role of Slavery Safeguarding Leads. However, strong co-operation between the Safeguarding Leads and NGOs is envisaged.<sup>222</sup>

#### d) Assistance to victims

Measures on assistance are a matter of devolved powers and thus regulated on a decentralised level by the constituent countries. Access to assistance and the assessment of special needs occur upon referral into the NRM. However, if a potential victim needs assistance urgently and before being referred into the NRM, the First Responder needs to contact an organisation or the UKHTC tactical advisor who then refers the victim to a government funded service provider. Therefore, a high level of co-operation between the various actors is needed. Assistance measures include safe accommodation, medical treatment for emergency cases, language services, legal counselling, referral to other services, psychological support, assistance in criminal proceedings and subsistence support. The services are provided primarily by so-called “prime contractors”

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<sup>218</sup> Report concerning the implementation by the UK, GRETA(2012)6, pp. 52 – 55.

<sup>219</sup> Report submitted by the British authorities on measures taken to comply with Committee of the Parties Recommendation, CP(2015)12, p. 19.

<sup>220</sup> Report concerning the implementation by the UK, GRETA(2012)6, p. 54.

<sup>221</sup> Home Office, Review of the National Referral Mechanism for victims of human trafficking, November 2014, available at <http://webarchive.nationalarchives.gov.uk/20141202113128/https://nrm.homeoffice.gov.uk/documents/2014/11/nrm-final-report.pdf> (consulted on 30 June 2015), p. 8.

<sup>222</sup> Report submitted by the British authorities on measures taken to comply with Committee of the Parties Recommendation, CP(2015)12, p. 18.

organisations and funded mostly by the Government. However, NGOs indicated that for services such as interpretation the funding had to be provided by private parties. As a general problem, the lack of unified standards on service provision for the whole national territory and therefore the difference in assistance depending on the service provider can be mentioned.<sup>223</sup>

In England and Wales, the faith-based organisation Salvation Army was contracted by the Ministry of Justice after a competitive tender in 2011 for the provision of assistance to adult victims. The Salvation Army in turn has subcontracted 12 organisations providing assistance to victims. Some of the subcontracted organisations, namely Migrant Helpline, Unseen UK and the Medaille Trust, are also designated First Responders, while others are more involved in data collection and information providing to the Salvation Army. The Salvation Army supervises all the subcontracted organisations and the management of their services. On the other hand, the subcontractors have to produce monitoring reports.<sup>224</sup> The contract and its implementation by the Salvation Army are monitored by the Contract Management Victim Care Group run by the Ministry of Justice. In addition, the Providers' Roundtable Group, also run by the Ministry of Justice, is an opportunity to meet the subcontractors and to discuss challenges and exchange information on experiences and good practices.<sup>225</sup> During the country visit, GRETA also visited a safe house run by the NGO Hestia, one of the subcontractors, and concluded that it was of a good standard. When GRETA carried out its country visit to the UK, this new system with the Salvation Army as prime contractor was still new and only in the process of being adjusted, but there was a general sensation of uncertainty and mistrust towards the Salvation Army and its work among the NGOs, being of the opinion that their experience and expertise was not duly taken into account in the preparation of the new system.<sup>226</sup> Very recently, the Home Office has reviewed and retendered the Victim Care

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<sup>223</sup> Report concerning the implementation by the UK, GRETA(2012)6, pp. 60 – 61.

<sup>224</sup> *Ibidem*, pp. 61 – 62.

<sup>225</sup> *Ibidem*, p. 20.

<sup>226</sup> *Ibidem*, p. 62.

Contract, jointly funded by the Office and the Ministry of Justice,<sup>227</sup> again awarding the contract to the Salvation Army.<sup>228</sup>

Interestingly, there are also several independently funded support providers, outside of the NRM, such as the POPPY Project. Victims receiving assistance from these providers are not required to co-operate with the authorities.<sup>229</sup>

In Northern Ireland, assistance is provided by the NGOs Migrant Help in respect of men and Belfast and Lisburn Women's Aid in respect of women, under tendered contract with the Department of Justice.<sup>230</sup> This support has been recently put on a statutory footing, by the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015.<sup>231</sup> GRETA visited a safe house run by the NGO Women's Aid and found it to be of a high standard.<sup>232</sup>

In Scotland, assistance is provided in co-operation between the Scottish Government and two NGOs. The NGO TARA is responsible for the assistance of adult women victims of trafficking for sexual exploitation. The NGO Migrant Help is responsible for the assistance of all other adult victims. Both are also First Responders in the NRM and funded by the Scottish Government. During its country visit, GRETA visited a safe house run by Migrant Help and found that it provides very good living conditions. It is mentionable that Migrant Help also helps victims in administrative matters and contacts with embassies, solicitors, officials and other authorities. TARA, on the other hand, does not dispose of a safe house and victims are accommodated in different facilities. The Glasgow City Council, for instance, has placed two beds at the disposal of trafficking victims, but there remains a serious gap, in particular outside Glasgow. In addition, TARA faces the problem of being understaffed. As a positive development,

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<sup>227</sup> Report submitted by the British authorities on measures taken to comply with Committee of the Parties Recommendation, CP(2015)12, p. 24.

<sup>228</sup> The Salvation Army News Centre, *Modern Slavery: The Salvation Army Is Awarded Victim Care Contract*, 26 March 2015, available at <http://news.salvationarmy.org.uk/modern-slavery-salvation-army-awarded-victim-care-contract> (consulted on 30 June 2015).

<sup>229</sup> Report concerning the implementation by the UK, GRETA(2012)6, p. 62.

<sup>230</sup> Department of Justice and Organised Crime Task Force, *Northern Ireland Human Trafficking and Exploitation Action Plan 2014 – 15*, available at [www.dojni.gov.uk/index/publications/publication-categories/pubs-policing-community-safety/community-safety/organised-crime/northern-ireland-human-trafficking-and-slavery-action-plan-2014-15.pdf](http://www.dojni.gov.uk/index/publications/publication-categories/pubs-policing-community-safety/community-safety/organised-crime/northern-ireland-human-trafficking-and-slavery-action-plan-2014-15.pdf) (consulted on 13 May 2015), p. 11.

<sup>231</sup> Report submitted by the British authorities on measures taken to comply with Committee of the Parties Recommendation, CP(2015)12, p. 25.

<sup>232</sup> Report concerning the implementation by the UK, GRETA(2012)6, p. 63.

the decision by the Scottish Government to fund the secondment of a specialised psychologist to TARA for a period of six months can be mentioned.<sup>233</sup>

Regarding children victims of trafficking, two specialised NGOs, Barnardo's and the National Society for the Prevention of Cruelty to Children (NSPCC), provide assistance measures throughout the UK to separated children. Barnardo's is also planning to establish a safe house for children.<sup>234</sup>

e) Repatriation and return of victims

NGOs are also involved in repatriation and return programmes for victims of trafficking. In 2011, the Home Office granted funding for an Assisted Voluntary Return (AVR) program to be carried out by the NGO Refugee Action.<sup>235</sup> In both Scotland and Northern Ireland, assistance in repatriation can be carried out on a case-by-case basis, upon request by the victim and only if the police and the organisation consider it to be in the best interest of the victim.<sup>236</sup> A point of interest is that due to the fact that in Scotland the procedure for an AVR programme takes a long time, the NGO Migrant Help simply organises the journey and tickets and the Scottish Government reimburses them afterwards. Other concerns expressed were about funding and the existence of cases where victims were returned immediately after getting a negative identification decision, without consulting or even contacting the NGO assisting the victim.<sup>237</sup> In this area, clearly more co-operation is needed.

f) Assistance and support to victims during criminal proceedings

In the UK, NGOs have a say also in proceedings against victims, as they can provide evidence so that victims of trafficking are not prosecuted for criminal offences.<sup>238</sup> They can intervene as third parties and provide oral or written evidence. GRETA noted that contributions from NGOs were well received in the proceedings.<sup>239</sup>

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<sup>233</sup> *Ibidem*, pp. 63 – 64.

<sup>234</sup> *Ibidem*, p. 64.

<sup>235</sup> *Ibidem*, p. 70.

<sup>236</sup> Report submitted by the British authorities on measures taken to comply with Committee of the Parties Recommendation, CP(2015)12, p. 29.

<sup>237</sup> Report concerning the implementation by the UK, GRETA(2012)6, pp. 71 – 72.

<sup>238</sup> *Ibidem*, p. 75.

<sup>239</sup> *Ibidem*, p. 79.

### *3.3.3 Partnership as perceived by NGOs*

Among the NGOs contacted for the written survey carried out for this research, ECPAT UK, a national NGO, but part of the international network of ECPAT International, which works mainly in campaigning against child trafficking and transnational child abuse, completed the questionnaire. To the question of how NGOs perceive the importance and effectiveness of strategic partnerships in their country, ECPAT UK indicated that they are essential and that even more co-operation and inclusion of civil society would be desirable. Even though ECPAT UK is not a service provider, it runs youth groups for child victims of trafficking, but it does not receive any government funding therefor. However, ECPAT UK pointed to partnerships between the government and other NGOs, which – according to it – work well on the whole. ECPAT UK is not involved in the identification process, but monitors and scrutinises it and recently produced a report critiquing the existing NRM and proposing an alternative model.<sup>240</sup> It could be subsumed that its non-involvement in the partnership makes it easier to be critical. Generally, ECPAT UK expressed the opinion that a too critical attitude towards the government can lead to difficulties in communication, but that as long as criticism is evidence- and victims-based, “the positives of being a critical friend outweigh any negatives”.<sup>241</sup>

### *3.3.4 Existing challenges*

Main challenges in the UK regard the complex legislative and institutional framework, making the anti-trafficking response rather fragmented and NGO networks even more important. It remains to be seen how this may change with the introduction of the new Independent Anti-Slavery Commissioner. It further remains to be seen how the government will deal with the proposals contained in the NRM’s review.

Local differences, some NGOs’ low capacities and insecure funding can be mentioned as general challenges.

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<sup>240</sup> Email from Chloe Setter, Head of Advocacy, Policy & Campaigns (Child Trafficking), ECPAT UK, 1 May 2015.

<sup>241</sup> *Ibidem*.

As a concluding remark, GRETA noted that further and stronger co-ordination and partnerships among the various actors – and between the State and NGOs in particular – are crucial for an effective anti-trafficking strategy in the UK.<sup>242</sup>

#### **4. Comparative analysis**

Comparing the different situations and involvement of NGOs in the three countries, following considerations can be made.

##### a) Involvement on the institutional level

In Austria, major NGOs are involved on the institutional level through their member status in the Task Force on Combating Human Trafficking Austria and in the working groups established within the Task Force. One NGO that replied to the survey indicated that it uses this forum also for advocacy work, so that the two key roles of being a partner and a critical watchdog are combined.<sup>243</sup> The Ludwig Boltzmann Institute outlined, however, that decision making is not always very transparent.<sup>244</sup> In Italy, NGOs have not been involved on the institutional level, but it has to be noted that their non-involvement in the Inter-ministerial Commission was partly due to the fact that the Commission was responsible for selecting the NGOs to which to grant funding.<sup>245</sup> Including NGOs could have therefore meant conflicts of interests and repercussions on their independence. In the absence of a national co-ordination structure, NGOs operate mainly on the local level, which – in the author's opinion – may hinder them from getting a comprehensive picture of the situation. The UK is an example of how NGOs and their involvement on the institutional level can be influenced by political changes, as occurred in 2010. However, NGOs are quite well represented in institutional settings, for example in the working groups set up by the UKHTC or in the NRM Oversight Group, where they can express their views and discuss them. It has to be noted, however, that despite the impression of good involvement, NGOs themselves

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<sup>242</sup> Report concerning the implementation by the UK, GRETA(2012)6, p. 84.

<sup>243</sup> Email from anonymous NGO, 15 May 2015.

<sup>244</sup> Email from Julia Planitzer, Researcher, Ludwig Boltzmann Institute of Human Rights, 17 May 2015.

<sup>245</sup> Report concerning the implementation by Italy, GRETA(2014)18, p. 21.

complained about the fact that their inputs were not taken into account sufficiently.<sup>246</sup> This again shows how important the critical voice of NGOs is.

#### b) Prevention

As to their involvement in prevention measures, no major problems have been identified in Austria, except insufficient funding for trainings.<sup>247</sup> There is a quite good co-operation among the actors also in Italy, but always only on the local level.<sup>248</sup> However, it can be noted that as far as the interests of the actors involved do not diverge, co-operation does not present significant problems. On the other hand, as far as the UK is concerned, several problems were faced, both with regard to the exclusion of NGOs from the national campaign and to the insecurity of funding.<sup>249</sup> This fact seems to contradict the statement that in the area of prevention co-operation does not constitute particular problems. However, there have also been good examples of co-operation in this field, again underpinning the previous statement.

#### c) Identification

The identification process in Austria includes the major NGOs, but there is a lack of clarity concerning access to detention centres, in particular for NGOs with the possibility to identify victims. The need for a NRM has therefore been noted and is in the process of being adopted, with the involvement of NGOs.<sup>250</sup> As far as Italy is concerned, the good practice of local referral mechanisms was already noted, as was the lack of such a mechanism on the national level.<sup>251</sup> It was outlined that co-operation does not work very well, as law enforcement officials often do not co-operate.<sup>252</sup> Again, with the diversion between the various interests, co-operation becomes more difficult. In the UK, the establishment of a NRM, a formalised framework for co-operation of the various actors, has to be highlighted. This is a significant step towards a well-functioning partnership, as the roles and responsibilities are clearly and formally divided. However, as noted above, the fact that NGOs are reluctant to refer victims to

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<sup>246</sup> The Anti-Trafficking Monitoring Group, *supra* footnote 212, p. 125.

<sup>247</sup> Report concerning the implementation by Austria, GRETA(2011)10, p. 15.

<sup>248</sup> Report concerning the implementation by Italy, GRETA(2014)18, pp. 24 – 25.

<sup>249</sup> Report concerning the implementation by the UK, GRETA(2012)6, p. 42.

<sup>250</sup> Task Force on Combating Human Trafficking Austria, *supra* footnote 97, p. 42.

<sup>251</sup> Report concerning the implementation by Italy, GRETA(2014)18, p. 32.

<sup>252</sup> UN General Assembly, *supra* footnote 143, pp. 12 – 13.

the NRM because of various reasons, but mainly because they do not trust the authorities,<sup>253</sup> is a sign of not well-functioning co-operation. It remains to be seen how the NRM will change after the review in 2014. In addition, also with regard to the UK, problems persist in the identification of victims in detention centres, an area where interests diverge particularly, showing again that co-operation becomes more difficult with the divergence of interests.

#### d) Assistance to victims

Co-operation in the provision of assistance in Austria is marked by the good practice of the agreements between authorities and LEFÖ-IBF and MEN VIA. Also the BIM indicated that the cooperation in the provision of assistance is working well. However, on a more general note and not referring to any NGO in particular, the respondent noted that it can imagine it to be difficult sometimes to have a contract or agreement with the authorities and to be critical at the same time.<sup>254</sup> In Italy, assistance is provided by NGOs. The funding system therefor, with an annual tender and the need for NGOs to find a local partner<sup>255</sup> may put NGOs in a position that puts their independence at risk. In the UK, co-operation between the authorities and NGOs in Northern Ireland and Scotland seems to work well, except from problems regarding funding and gaps outside of the major cities. In England and Wales, on the other hand, the competitive tender through which the Salvation Army has been selected as prime contractor caused mistrust and competition among the NGOs,<sup>256</sup> weakening, in the author's opinion, their position towards the State authorities. However, on a positive note it has to be mentioned that the continuous monitoring among the different actors and meetings and discussions provide a good opportunity for information exchange and discussions.

#### e) Repatriation and return of victims

As far as repatriation and return programmes are concerned, these are offered in all three countries by several NGOs. A general problem regards funding. In Italy, funding for return programmes is granted through the assistance programmes,<sup>257</sup> thus potentially

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<sup>253</sup> Report concerning the implementation by the UK, GRETA(2012)6, p. 53.

<sup>254</sup> Email from Julia Planitzer, Researcher, Ludwig Boltzmann Institute of Human Rights, 17 May 2015.

<sup>255</sup> Report concerning the implementation by Italy, GRETA(2014)18, p. 37.

<sup>256</sup> Report concerning the implementation by the UK, GRETA(2012)6, p. 62.

<sup>257</sup> Report concerning the implementation by Italy, GRETA(2014)18, p. 44.



causing the same problems as noted above. Also in the UK, the lack of funding was noted, in addition to the cases where NGOs were not contacted before immediately returning the victim with a negative identification decision.<sup>258</sup> The lack of communication may have negative effects on the co-operation, especially in terms of NGOs mistrusting the authorities, as mentioned above.

f) Assistance and support to victims during criminal proceedings

In all three countries, NGOs also provide psychological and legal help during criminal proceedings. No major issues have been identified in this area.

From the comparative analysis emerges that where NGOs are involved on the institutional level, the measures taken in the fields of prevention, identification, assistance, repatriation and return and assistance during criminal proceedings benefit from their inputs and the co-operation. In fact, involvement on the institutional level and in policy-developing provides NGOs with the opportunity to share their experiences, to express their views and raise issues with the authorities instead of an external monitoring mechanism. In the author's view, express their voice in such settings may be more productive and have more impact. In Austria, the well working involvement of NGOs in the Task Force has an impact on the anti-trafficking responses, with only one urging recommendation from GRETA during the first evaluation round.<sup>259</sup> In Italy, on the other hand, the non-involvement of NGOs on the institutional level makes the co-operation rather incidental, apart from the agreements and therefore formalised co-operation on the local level. In the first evaluation round, GRETA has issued 15 urging recommendations towards Italy.<sup>260</sup> In the UK, even though involved on an institutional level, the NGOs' inputs were not sufficiently taken into account. This may affect also a good partnership in the provision of measures in the different areas of co-operation. For instance, an issues identified was the mistrust of NGOs towards the authorities. The UK has been addressed 5 urging recommendations by GRETA.<sup>261</sup>

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<sup>258</sup> Report concerning the implementation by the UK, GRETA(2012)6, p. 72.

<sup>259</sup> 4<sup>th</sup> General Report on GRETA's activities, GRETA(2015)1, p. 72.

<sup>260</sup> *Ibidem*, p. 72.

<sup>261</sup> *Ibidem*, p. 72.

However, partnerships are considered essential by all NGOs that replied to the questionnaire, always stressing the need for a framework clearly dividing the different roles of the various actors, as to ensure the NGOs' independence from their partners.

It remains now to be seen how NGOs can be involved in the monitoring process, which will be analysed in the following chapter.

## Chapter III

# NGOs as a source of information in the monitoring process

### 1. Introduction

As already noted, the second main role of NGOs envisaged by the Council of Europe Convention on Action against Trafficking in Human Beings is to assist GRETA in the monitoring process on the implementation of the Convention. It provides for several channels through which NGOs have the possibility to provide information to GRETA. Generally, it can be noted that GRETA's working relations with NGOs also go beyond the monitoring process itself.

In fact, GRETA established contacts with NGOs already when preparing the first evaluation round<sup>262</sup> and keeps contacts also afterwards, as NGOs provide valuable feedback on GRETA's evaluation reports and participate in round-table meetings concerning the follow-ups undertaken by the State authorities of their countries. In fact, after the Committee of the Parties has issued its recommendations and, if necessary, set a time limit for the States to report back, NGOs may have another opportunity to get involved in this kind of follow-up procedure. The governments' replies to the recommendations are then forwarded to GRETA. Furthermore and among other co-operation activities including regional conferences, the Council of Europe organises round-tables to discuss GRETA's assessment and the possibilities for co-operation between the Council of Europe and the States, usually several months after the adoption of the report and the recommendations by the Committee of the Party.<sup>263</sup> Hence, in addition to the channels for participation during the monitoring process in a strict sense

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<sup>262</sup> 1<sup>st</sup> General Report on GRETA's activities, GRETA(2011)11, p. 15.

<sup>263</sup> 2<sup>nd</sup> General Report on GRETA's activities, GRETA(2012)13, p. 21; 3<sup>rd</sup> General Report on GRETA's activities, GRETA(2013)17, pp. 19 and 30; 4<sup>th</sup> General Report on GRETA's activities, GRETA(2015)1, p. 27; see also Council of Europe, Other activities, available at [www.coe.int/t/dghl/monitoring/trafficking/Docs/activities/default\\_en.asp](http://www.coe.int/t/dghl/monitoring/trafficking/Docs/activities/default_en.asp) (consulted on 24 June 2015).

– starting with sending the questionnaire and ending with GRETA’s evaluation report –, which will be discussed below, these are additional vehicles for NGOs to get involved and provide information, as part of a more comprehensive and continuous monitoring. Furthermore, GRETA always encourages working relations with NGOs active in the field of combating trafficking, in particular with international NGOs such as Amnesty International, Anti-Slavery International or La Strada International, also beyond the frame of the monitoring process.<sup>264</sup> La Strada International, for instance, indicated that it has been working on GRETA even before it was established by advocating for the inclusion of specific criteria for candidates, by supporting NGOs in their advocacy for candidates and – once the candidates were elected – by advocating for a transparent working process that includes input from NGOs. Since GRETA has been active, LSI has supported the work of the Group and its Secretariat, for instance by encouraging national NGOs to provide feedback to GRETA, by providing the Secretariat with the contact details of NGOs prior to country visits or by presenting at events and supporting the roundtables organised by GRETA.<sup>265</sup> GRETA also participates in conferences, symposia and other events organised by NGOs.<sup>266</sup> Generally, contacts between GRETA and NGOs have been continuously increasing.<sup>267</sup> Such partnership is beneficial for both GRETA and NGOs. On the one hand, GRETA is able to access grassroots information and on the other, NGOs can use GRETA’s evaluation reports to put pressure on their governments.<sup>268</sup> Hence, finally, it is in the NGOs’ interest to express their concerns and be critical, always provided that it is evidence-based.

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<sup>264</sup> 1<sup>st</sup> General Report on GRETA’s activities, GRETA(2011)11, p. 15; 2<sup>nd</sup> General Report on GRETA’s activities, GRETA(2012)13, p. 18; 3<sup>rd</sup> General Report on GRETA’s activities, GRETA(2013)17, p. 25.

<sup>265</sup> Email from Marieke van Doorninck, Advisor Public Affairs, La Strada International, 4 May 2015.

<sup>266</sup> By way of example, see 3<sup>rd</sup> General Report on GRETA’s activities, GRETA(2013)17, p. 30; 4<sup>th</sup> General Report on GRETA’s activities, GRETA(2015)1, p. 27.

<sup>267</sup> 1<sup>st</sup> General Report on GRETA’s activities, GRETA(2011)11, p. 15.

<sup>268</sup> CoE, The monitoring mechanism of the Council of Europe Convention on Action against Trafficking in Human Beings (GRETA and the Committee of the Parties). Conference proceedings, Strasbourg, 8-9 November 2007, Strasbourg: Council of Europe Publishing, 2008, p. 53.

## 2. NGOs' involvement in the monitoring process

### 2.1 GRETA's monitoring work

According to its rules of procedure for evaluating implementation, GRETA follows a procedure divided into rounds,<sup>269</sup> the duration of which is four years.<sup>270</sup> Each round is initiated by sending the questionnaire to the Party concerned, at the earliest one year after the entry into force of the Convention for that Party and at the latest two years following the same date.<sup>271</sup> For each round, GRETA selects the specific provisions of the Convention to focus on.<sup>272</sup>

GRETA started the first evaluation round in February 2010, sending the questionnaire<sup>273</sup> to the first ten States that became Parties to the Convention. The focus for the first evaluation round was set as to provide an overview of implementation of the Convention by each State Party.<sup>274</sup> The second evaluation round was launched in May 2014 and the second questionnaire<sup>275</sup> sent to the first three States Parties to the Convention. So far, a total number of 39 States has been evaluated.<sup>276</sup>

GRETA always stresses the importance of NGOs as a source of information. It has been noted that “only with their assistance, GRETA will be able to carry out its mandate as

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<sup>269</sup> Rule 1 Rules of procedure for evaluating implementation, THB-GRETA(2014)52.

<sup>270</sup> Rule 2 Rules of procedure for evaluating implementation, THB-GRETA(2014)52.

<sup>271</sup> Rule 3 Rules of procedure for evaluating implementation, THB-GRETA(2014)52.

<sup>272</sup> Rule 4 (1) Rules of procedure for evaluating implementation, THB-GRETA(2014)52.

<sup>273</sup> Questionnaire for the evaluation of the implementation: First evaluation round, GRETA(2010)1 rev4.

<sup>274</sup> Rule 4 (2) Rules of procedure for evaluating implementation, THB-GRETA(2014)52.

<sup>275</sup> Questionnaire for the evaluation of the implementation: Second evaluation round, GRETA(2014)13.

<sup>276</sup> The first group under evaluation was constituted by Albania, Austria, Bulgaria, Croatia, Cyprus, Denmark, Georgia, Republic of Moldova, Romania and the Slovak Republic; the second group included Armenia, Bosnia and Herzegovina, France, Latvia, Malta, Montenegro, Norway, Poland, Portugal and the United Kingdom; the third group concerned Azerbaijan, Belgium, Ireland, Luxembourg, The Netherlands, Serbia, Slovenia, Spain, Sweden and “the former Yugoslav Republic of Macedonia”; the 4<sup>th</sup> group of countries under evaluation were Andorra, Italy, San Marino and Ukraine. In addition, most recently the evaluation reports on Finland, Germany, Hungary, Iceland and Lithuania have been published. As to the States which became Party to the Convention after 1 March 2012, the questionnaire has been sent. Belarus, Greece and Estonia and any other State that becomes Party to the Convention in the future, will receive the first questionnaire at the earliest one year after the entry into force of the Convention for that Party and at the latest two years following the same date (Rule 3 of the Rules of procedure for evaluating implementation of the CoE Convention by the Parties); see Council of Europe, 1st Evaluation Round: Timetable 2010-2014, available at [www.coe.int/t/dghl/monitoring/trafficking/Docs/Monitoring/Timetable\\_en.asp#TopOfPage](http://www.coe.int/t/dghl/monitoring/trafficking/Docs/Monitoring/Timetable_en.asp#TopOfPage) (consulted on 26 April 2015); Council of Europe, Country Evaluations: 1<sup>st</sup> Evaluation round, available at [www.coe.int/t/dghl/monitoring/trafficking/Docs/Monitoring/Country\\_Reports\\_en.asp](http://www.coe.int/t/dghl/monitoring/trafficking/Docs/Monitoring/Country_Reports_en.asp) (consulted on 23 June 2015).

effectively as possible, given time and resource constraints, because, after all, no completed questionnaire or database can match with the experiences and expertise of those working directly with the victims of trafficking in human beings”.<sup>277</sup> NGOs carrying out research activities have very good expertise on the topic and service providing NGOs come into direct contact with victims of trafficking and thus gain a grounded knowledge on the victims’ experiences during the exploitation and abuse, but also on their experiences with the authorities. For this reason, they are in a unique position to give first-hand information.<sup>278</sup> It has to be assumed that GRETA has not consulted directly with trafficked persons so far.<sup>279</sup> In addition, even acknowledging the possibility for GRETA to receive communications also about single cases, which can serve as information on more general trends, there is no individual complaints procedure.<sup>280</sup> This makes the role of NGOs as spokespersons for the victims’ voices even more valuable. Furthermore, the inclusion of the NGOs’ points of view also ensures a more comprehensive perspective, adding an alternative source of information to the State’s view. In fact, NGOs are more aware of the practical implementation of the measures and actions taken at governmental level, of the reality on the ground, of the impact of such measures and the issues that still need to be tackled. Their role as critical watchdogs includes monitoring the implementation of the measures taken on a regular basis, to report to governments and other bodies,<sup>281</sup> outlining shortcomings and providing recommendations.<sup>282</sup> It can be noted that their involvement in partnerships with the State authorities are important also because through them NGOs get more information and a more comprehensive picture of the implementation of measures. On the other hand, being a partner of the State must not prevent them from providing information and expressing their concerns. Again, their independence from the State partner is crucial. In its evaluation reports, GRETA often highlights that different

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<sup>277</sup> Sax, 2012, pp. 155 – 156.

<sup>278</sup> CoE, supra footnote 268, p. 53.

<sup>279</sup> Planitzer, 2014, p. 123.

<sup>280</sup> 2<sup>nd</sup> General Report on GRETA’s activities, GRETA(2012)13, p. 10.

<sup>281</sup> CoE, supra footnote 268, p. 53.

<sup>282</sup> La Strada International and Anti-Slavery International, Guidance for NGOs to report to GRETA, available at <http://lastradainternational.org/lisidocs/Guidance%20for%20NGOs%20to%20report%20to%20GRETA.pdf> (consulted on 13 April 2015), p. 5.

sources gave different information, which underlines the importance of an alternative source of information.<sup>283</sup>

According to the perception of La Strada International, the NGOs' participation in the monitoring process has been encouraged from the beginning and has been very effective, also due to GRETA's openness to the NGOs' inputs.<sup>284</sup> During the first evaluation round, GRETA consulted NGOs and members from civil society from every State Party under evaluation. In each country evaluation report, a list of the consulted NGOs and civil society organisations can be found. In total, 335 actors from civil society were consulted by GRETA during the first evaluation round.

A survey conducted in 2014 amongst NGOs by La Strada International on their experiences of the first round of evaluations by GRETA shows that 41% considered GRETA's evaluation report and the inclusion of the NGO's input as very good, 29% considered it good and other 29% as satisfactory, while only a small number of NGOs felt that their input was not taken into account sufficiently. As a general remark, they indicated that GRETA could use a stronger language when formulating recommendations for the State, useful for the NGOs' advocacy work.<sup>285</sup>

## **2.2 The channels for NGOs' involvement**

The channels open to NGOs for providing information to GRETA during the monitoring process – here intended as starting with the sending of the questionnaire and culminating in GRETA's evaluation report – are the following: consultation by the State when drafting the reply to the questionnaire, information request by GRETA, meeting with GRETA during its country visit or submission of an alternative report. The degree of NGO involvement and the degree of their possibility to express their critical voice also depends on the channel through which they are consulted, as will be explained in this section.

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<sup>283</sup> See, for example, Report concerning the implementation by Austria, GRETA(2011)10, pp. 26 and 27; Report concerning the implementation by Italy, GRETA(2014)18, pp. 31 and 34; Report concerning the implementation by the UK, GRETA(2012)6, pp. 46, 48, 54, 67, 68, 69, 77 and 83.

<sup>284</sup> Email from Marieke van Doorninck, Advisor Public Affairs, La Strada International, 4 May 2015.

<sup>285</sup> La Strada International, NGO experiences of the first round of evaluations by GRETA, 2014, available at <http://lastradainternational.org/lisidocs/3058-NGO%20survey%20on%20GRETA%20monitoring.pdf> (consulted on 25 May 2015), pp. 1 – 2.

### *2.2.1 Consultation by the State*

As mentioned above, the monitoring process is initiated by sending a questionnaire prepared by GRETA to the State Parties. The questionnaire contains questions on the implementation of specific provisions of the Convention by the Party concerned and is made publicly available.<sup>286</sup> The Parties have to reply to the questionnaire within the time limit set by GRETA (currently four months),<sup>287</sup> providing detailed answers and all necessary reference texts.<sup>288</sup> According to the previous rules of procedure, the States' replies were treated by GRETA as confidential and were made public only in case a party requested publication.<sup>289</sup> Under these rules, it was noted that such confidentiality did not only constitute an obstacle for a comprehensive data collection, but also hindered an effective participation of NGOs in the process. In fact, in case the reply was not published, NGOs did not have the possibility to comment on it or stir discussion, nor to react to it and supplement the official replies and thus be more focused when providing information to GRETA during the country visit or otherwise. In the spirit of transparency, for a higher level of their own accountability and in order to ensure a more effective participation of NGOs in the monitoring process, it was noted that States should be encouraged to request publication of their replies to the questionnaires.<sup>290</sup> Also GRETA itself noted that the publication of the replies at an early stage would be beneficial.<sup>291</sup> Also according to La Strada International, the process would benefit from the publication of the governments' replies to GRETA's questionnaire, so that NGOs can react to the answers provided in the replies.<sup>292</sup> NGOs indicated that they would appreciate the publication of the State's reply prior to their meeting with GRETA during the country visit, so as to be able to react to it, fill the gaps and add information drawn from their practical experience to the theoretical perspective of the government.<sup>293</sup> However, the basically confidential nature of the States replies may change, as the

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<sup>286</sup> Rule 5 (1) Rules of procedure for evaluating implementation, THB-GRETA(2014)52.

<sup>287</sup> The previous time limit of six months for submitting the replies was considered to be too long and therefore shortened to four months; see 2<sup>nd</sup> General Report on GRETA's activities, GRETA(2012)13, p. 8.

<sup>288</sup> Rule 5 (2) Rules of procedure for evaluating implementation, THB-GRETA(2014)52.

<sup>289</sup> Rule 5 (3) Rules of procedure for evaluating implementation, THB-GRETA(2009)3.

<sup>290</sup> Planitzer, 2012, p. 36.

<sup>291</sup> 2<sup>nd</sup> General Report on GRETA's activities, GRETA(2012)13, p. 8.

<sup>292</sup> Email from Marieke van Doorninck, Advisor Public Affairs, La Strada International, 4 May 2015.

<sup>293</sup> La Strada International, *supra* footnote 285, p. 2.



amended rules on procedure – entered into force on 1 January 2015 – provide that “GRETA shall publish replies to the questionnaire unless otherwise requested by the party concerned”.<sup>294</sup> As can be seen, only in case a State explicitly requests confidentiality, the replies are not published, converting the prior situation into making the replies basically public.

However, confidentiality of the reply is not the only obstacle for NGOs. As can be derived from question 3 of the questionnaire for the first evaluation round,<sup>295</sup> States have the possibility to consult NGOs or other members of civil society for the preparation of the State’s reply to the questionnaire. Even though such consultation would be advisable, in order to ensure accurate and comprehensive information,<sup>296</sup> neither the Convention, nor the rules of procedure for evaluating implementation pronounce on the matter. Thus it is left to the discretion of each State whether or not to consult NGOs. There are various ways of including NGOs in the preparation of the reply. NGOs can be involved either as part of the national working group or task force in charge of preparing the reply, or upon request by the State to answer certain questions or the entire questionnaire.<sup>297</sup> The fact that the consultation is of a non-mandatory nature can constitute an obstacle to the inclusion of the NGOs’ views and information, as States may decide to not take into account their inputs or delete critical points before submitting the replies to GRETA,<sup>298</sup> and consequently hinder the drawing of a comprehensive picture on the real situation in the country under evaluation. Also according to GRETA, civil society should be effectively consulted.<sup>299</sup>

So far, only 12 out of the 39 States evaluated had their replies to the questionnaire published.<sup>300</sup> Information on whether NGOs or other members of civil society were

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<sup>294</sup> Rule 5 (3) Rules of procedure for evaluating implementation, THB-GRETA(2014)52.

<sup>295</sup> Question 3 reads “did any non-governmental organisations (NGOs) or other entities of civil society contribute to responding to this questionnaire? If so, please indicate the main activities of each of the NGOs and/or other entities of civil society which contributed”; see Questionnaire for the evaluation of the implementation: First evaluation round, GRETA(2010)1 rev4, p. 4.

<sup>296</sup> CoE, *supra* footnote 268, p. 48.

<sup>297</sup> La Strada International and Anti-Slavery International, *supra* footnote 282, p. 5.

<sup>298</sup> Hames et al., 2010, p. 17; Planitzer, 2012, p. 41.

<sup>299</sup> 4<sup>th</sup> General Report on GRETA’s activities, GRETA(2015)1, p. 12.

<sup>300</sup> The States Parties that had their replies to the questionnaire published are Armenia, Austria, Bulgaria, Denmark, Finland, Georgia, Italy, Latvia, the Netherlands, Serbia, Sweden and “the former Yugoslav Republic of Macedonia”; see Council of Europe, Country Evaluations: 1<sup>st</sup> Evaluation round, available at

consulted by the State in the preparation of the reply is available only with regard to these 12 States. As can be shown, out of 12, a total of 9 States consulted NGOs or members of civil society in drafting their replies, namely Armenia,<sup>301</sup> Austria,<sup>302</sup> Finland,<sup>303</sup> Georgia,<sup>304</sup> Italy,<sup>305</sup> Latvia,<sup>306</sup> the Netherlands,<sup>307</sup> Serbia<sup>308</sup> and “the former Yugoslav Republic of Macedonia”<sup>309</sup>. On the contrary, Bulgaria,<sup>310</sup> Denmark<sup>311</sup> and Sweden<sup>312</sup> indicated that no NGOs or members of civil society were involved.

The above mentioned survey conducted amongst NGOs by La Strada International shows that 40% stated that there was co-operation with the government in replying to the questionnaire, but only 15% indicated that the co-operation process was really a joint process of working together.<sup>313</sup>

Concluding, it can be noted that consultation of NGOs by the State when drafting its reply to GRETA’s questionnaire is an often used channel, but its effectiveness depends on various factors: on the State’s willingness to consult NGOs, as this is not mandatory, on the extent to which they are involved, as NGOs can be asked to answer only certain questions, and on how far their input is considered, as the State can always delete overly critical comments before submitting the reply. Strategic partnerships on the institutional level, as shown by the example of Austria, can be very important in this regard, as in that occasion all actors are in the position to prepare the reply together.

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[www.coe.int/t/dghl/monitoring/trafficking/Docs/Monitoring/Country\\_Reports\\_en.asp](http://www.coe.int/t/dghl/monitoring/trafficking/Docs/Monitoring/Country_Reports_en.asp) (consulted on 3 July 2015).

<sup>301</sup> Reply from Armenia to the Questionnaire, GRETA(2011)23, pp. 7 – 8.

<sup>302</sup> Task Force on Combating Human Trafficking Austria, supra footnote 99, p. 3.

<sup>303</sup> Reply from Finland to the Questionnaire, GRETA(2014)15, pp. 5 – 7.

<sup>304</sup> Reply from Georgia to the Questionnaire, GRETA(2011)6, p. 5.

<sup>305</sup> Reply from Italy to the Questionnaire, GRETA(2014)2, pp. 5 – 6.

<sup>306</sup> Reply to the Questionnaire from Latvia, GRETA(2012)1, p. 7.

<sup>307</sup> Government of the Netherlands, Response of the Netherlands to the Questionnaire, May 2012, available at

[http://www.coe.int/t/dghl/monitoring/trafficking/Source/Public\\_R\\_Q/GRETA\\_RQ\\_NLD\\_en.pdf](http://www.coe.int/t/dghl/monitoring/trafficking/Source/Public_R_Q/GRETA_RQ_NLD_en.pdf) (consulted on 15 April 2015), pp. 8 – 9.

<sup>308</sup> Reply from Serbia to the Questionnaire, GRETA(2014)3, pp. 11 – 15.

<sup>309</sup> Reply from “the former Yugoslav Republic of Macedonia” to the Questionnaire, GRETA(2014)1, p. 6.

<sup>310</sup> Reply from Bulgaria to the Questionnaire, GRETA(2011)2, p. 4.

<sup>311</sup> Reply from Denmark to the Questionnaire, GRETA(2011)01, p. 4.

<sup>312</sup> Reply from Sweden to the Questionnaire, GRETA(2013)17, p. 6.

<sup>313</sup> La Strada International, supra footnote 285, p. 1.

### 2.2.2 Information request by GRETA

According to article 38, paragraph 3, of the Convention, GRETA may request information from civil society. The rules of procedure for evaluating implementation of the Convention clarify that GRETA can address either the questionnaire or any other request for information to members of civil society, including non-governmental organisations, inviting them to reply within a certain time limit.<sup>314</sup> NGOs can decide to answer the whole or only a part of the questionnaire and send their replies directly to GRETA.<sup>315</sup> It was outlined that receiving the questionnaire without clear guidance on what is expected constitutes a difficulty for NGOs, which expressed the wish to get more guidance, also including examples on how other NGOs structured their replies.<sup>316</sup> As criteria for getting involved, it is set forth that “they shall be active in the field of action against trafficking in human beings and preferably national coalitions of organisations, or national branches of international non-governmental organisations. Moreover, they shall have access to reliable sources of information and be capable of carrying out the necessary verifications of this information”.<sup>317</sup> The replies are treated as confidential and made public only in case the respondent requests publication.<sup>318</sup> In fact, due to the power imbalance between State and NGOs, NGOs may prefer to stay anonymous.

GRETA noted that the number of NGOs responding to the questionnaire has progressively increased.<sup>319</sup> According to the GRETA Secretariat, however, it is difficult to generalise. It is the NGO’s decision whether and how to provide information. While some NGOs send information spontaneously, others ask for specific guidance on issues such as deadline or format for replying to GRETA’s requests.<sup>320</sup>

As can be seen, this channel of NGO involvement ensures that NGOs can inform GRETA directly, without their information being scrutinised and possibly deleted by

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<sup>314</sup> Rule 8 (1) Rules of procedure for evaluating implementation, THB-GRETA(2014)52.

<sup>315</sup> 2<sup>nd</sup> General Report on GRETA’s activities, GRETA(2012)13, p. 21.

<sup>316</sup> La Strada International, *supra* footnote 285, p. 1.

<sup>317</sup> Rule 8 (1) Rules of procedure for evaluating implementation, THB-GRETA(2014)52.

<sup>318</sup> Rule 8 (2) Rules of procedure for evaluating implementation. THB-GRETA(2014)52.

<sup>319</sup> 3<sup>rd</sup> General Report on GRETA’s activities, GRETA(2013)17, p. 30.

<sup>320</sup> Email from Petya Nestorova, Executive Secretary of the Council of Europe Convention on Action against Trafficking in Human Beings, GRETA, 22 May 2015.

the government and therefore ensuring an opportunity to express their concerns without having to fear drawbacks on their partnership with the State authorities.

### *2.2.3 Meeting with GRETA during its country visit*

Subsidiarily, GRETA can also organise and carry out a country visit to the State being monitored, “in co-operation with the national authorities and the ‘contact person’ appointed by the latter, and, if necessary, with the assistance of independent national experts [...]”.<sup>321</sup> During these visits, GRETA may be assisted by specialists in specific fields”.<sup>321</sup> The rules of procedure for evaluating implementation clarify that the subsidiary character of such country visits means that they are carried out only in case GRETA considers it necessary to complement the written information already received or to evaluate the implementation of the measures on the ground.<sup>322</sup> For each country visit, a delegation is appointed, consisting of the Rapporteur(s) for the report and eventually one or more other members of GRETA, excluding the nationals of the party concerned, accompanied by members of the Secretariat and, if necessary, interpreters, and assisted by specialists in specific fields, if GRETA decides so.<sup>323</sup> Usually, the delegation consists of two GRETA members and one administrator of the Secretariat.<sup>324</sup> No specific invitation by the State is required,<sup>325</sup> but GRETA needs to inform the party of its intention to conduct a country visit. Each party appoints a “contact person”, in cooperation with whom GRETA’s visit is organised and carried out, but GRETA can also decide that the delegation should be assisted by an independent national expert.<sup>326</sup> The delegation decides on the programme, the dates of the visit and on the stakeholders to meet, including governmental bodies, non-governmental organisations and other relevant actors. The “contact person” assists the delegation in the organisation of meetings with governmental bodies, while the meetings with non-governmental organisations or other members of civil society have to be organised directly between them and the GRETA Secretariat.<sup>327</sup> GRETA can also decide to visit facilities where

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<sup>321</sup> Article 38 (4) CoE Convention.

<sup>322</sup> Rule 9 (1) Rules of procedure for evaluating implementation, THB-GRETA(2014)52.

<sup>323</sup> Rule 9 (2) Rules of procedure for evaluating implementation, THB-GRETA(2014)52.

<sup>324</sup> Sax, 2012, p. 153.

<sup>325</sup> CoE, supra footnote 268, p. 48.

<sup>326</sup> Rule 9 (3) Rules of procedure for evaluating implementation, THB-GRETA(2014)52.

<sup>327</sup> Rule 9 (4) Rules of procedure for evaluating implementation, THB-GRETA(2014)52.

protection or assistance is provided, such as shelters or crisis centres.<sup>328</sup> The delegation then submits a summary of its finding to GRETA.<sup>329</sup>

The aim of country visits is to gain additional or clarifying information, to monitor the practical implementation of the measures taken on the ground, to get in direct contact with the relevant actors and encourage cooperation.<sup>330</sup> As can easily be seen, NGOs are of fundamental importance, be it as an additional source of information, or as the organiser of meetings with other members of civil society or as the facilitator of visits to mentioned facilities.<sup>331</sup> According to La Strada International, country visits are very important for the inclusion of NGOs in the process, as some grass roots NGOs may not have much experience in monitoring, writing alternative reports or completing questionnaires.<sup>332</sup>

An issue outlined in this regard is the lack of information on the selection criteria for the NGOs to be consulted.<sup>333</sup> As indicated by the GRETA Secretariat, there are no specific selection criteria. The rules applied are the ones established by rule 8 of the amended rules of procedure for evaluating the implementation of the Convention. In addition, GRETA consults different sources such as internet sites or contacts in the country in order to find out information about NGOs working in the anti-trafficking field. GRETA then follows an inclusive approach, inviting as many NGOs as possible to a joint meeting on the first day of the country visit. To the question of NGOs' readiness to participate in meetings with GRETA, the Secretariat answered that generally NGOs are interested and motivated to participate in the meetings with GRETA and that NGOs only rarely decline because they are not available or consider their work to be not directly relevant.<sup>334</sup>

In the survey conducted by La Strada International, all NGOs remarked positively the roundtable discussions with GRETA, the Group's preparedness, the preliminary contacts with the GRETA Secretariat and, in several cases, the communication with

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<sup>328</sup> 1<sup>st</sup> General Report on GRETA's activities, GRETA(2011)11, p. 10.

<sup>329</sup> Rule 9 (5) Rules of procedure for evaluating implementation. THB-GRETA(2014)52.

<sup>330</sup> CoE, supra footnote 268, p. 48.

<sup>331</sup> 2<sup>nd</sup> General Report on GRETA's activities, GRETA(2012)13, p. 21.

<sup>332</sup> Email from Marieke van Doorninck, Advisor Public Affairs, La Strada International, 4 May 2015.

<sup>333</sup> Rijken, 2014, p. 2.

<sup>334</sup> Email from Petya Nestorova, Executive Secretary of the Council of Europe Convention on Action against Trafficking in Human Beings, GRETA, 22 May 2015.

individual members with regard to specific issues. They indicated that the meetings could be longer, that the opportunity to meet individual NGOs should be provided for, as some NGOs do not feel free to speak not even in front of other NGOs, and that the first meeting could be with NGOs, in order to ensure a balanced focus.<sup>335</sup>

All in all, country visits ensure a good opportunity to share information, as some NGOs are not experienced in writing reports or filling in questionnaires and also because GRETA and NGOs can meet directly, starting from the organisational aspect that meetings with NGOs have to be organised directly with them. The NGOs' positive perception and their willingness to share information in these settings need to be highlighted. It has to be mentioned, however, that according to the rules of procedure country visits have only subsidiary character.<sup>336</sup> On the other hand, it can be noted that for the first evaluation round GRETA has decided to carry out country visits to all State Parties, in order to ensure equal treatment.<sup>337</sup> This approach has also been followed for the second evaluation round.<sup>338</sup> As can be seen, the – from a formal point of view – only subsidiary character of the country visits is overcome by GRETA's practice.

#### *2.2.4 Submission of an alternative report*

Even though nor the Convention nor the rules of procedure for evaluating implementation of the Convention pronounce on this issue, it is acknowledged that NGOs have the possibility to submit so-called alternative reports.<sup>339</sup> According to La Strada International, at the beginning of GRETA's work, most NGOs provided information by completing the questionnaire, separately from or jointly with the government. Only later did NGOs start to submit alternative reports, which in LSI's view is more effective.<sup>340</sup> However, although the provision of alternative information by NGOs through this channel is considered a valuable and important contribution,<sup>341</sup> GRETA has not specifically encouraged it. The lack of guidelines on how to report was

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<sup>335</sup> La Strada International, *supra* footnote 285, pp. 1 – 2.

<sup>336</sup> Rule 9 (1) Rules of procedure for evaluating implementation, THB-GRETA(2014)52.

<sup>337</sup> 2<sup>nd</sup> General Report on GRETA's activities, GRETA(2012)13, p. 6.

<sup>338</sup> Provisional timetable for the Second evaluation round, GRETA(2014)14.

<sup>339</sup> 2<sup>nd</sup> General Report on GRETA's activities, GRETA(2012)13, p. 21.

<sup>340</sup> Email from Marieke van Doorninck, Advisor Public Affairs, La Strada International, 4 May 2015.

<sup>341</sup> CoE, *supra* footnote 268, p. 48.

considered to be an obstacle for effective NGO alternative reporting and information providing.<sup>342</sup>

In order to fill this gap, Anti-Slavery International and La Strada International have developed guidance for NGOs on how to report to GRETA.<sup>343</sup> According to this guidance, it is advisable to follow the structure of the Convention, reporting on the implementation article by article, facilitating an easy navigation for GRETA when comparing the issues raised in the alternative report to the ones raised in the State's reply. Anyway, the alternative report should not be too general, but rather focus on the main shortcomings in the country concerned. Furthermore, it is recommended to provide a short summary of the main issues and recommendations. NGOs should also prioritise the key issues, for example focusing on protective measures. They can outline good practice examples, but should focus more on shortcomings and recommendations, concentrating on the practical implementation and direct impact of the measures taken on the rights of victims of trafficking, also providing case studies and examples, benefiting from their grassroots knowledge. Further recommendations outlined in the guidance are to refer to the human rights approach, to organise and work together with other NGOs when providing information to GRETA. This does not only reduce the workload of GRETA, but also of the NGOs themselves, being able to distribute the work among themselves, focus more on the issues each single NGO is specialised in and consequently provide more detailed information. Also GRETA expressed a preference for receiving one consolidated alternative report, rather than several separate ones. In addition, an alternative report should be clear, concrete, comprehensive, but short and succinct, well evidenced and documented through concrete examples and case studies, so that it constitutes a credible source of information.<sup>344</sup> Again, the importance of evidence-based assessments is underlined. The guidance also includes a template for NGO alternative reporting, pointing out and providing examples on which issues should be addressed and considered under the single articles of the Convention.<sup>345</sup> The guidelines were well received by many NGOs and several NGOs highlighted the added

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<sup>342</sup> Planitzer, 2012, p. 41.

<sup>343</sup> La Strada International and Anti-Slavery International, *supra* footnote 282.

<sup>344</sup> *Ibidem*, pp. 5 - 7.

<sup>345</sup> *Ibidem*, pp. 8 – 11.

value of drafting the report together with other NGOs, or by using already existing networks or by establishing networks for this specific purpose.<sup>346</sup> La Strada International pointed out that the guidance has been adapted for the second evaluation round and will be disseminated soon.<sup>347</sup> The GRETA Secretariat stated that it considered the guidelines to be a very useful tool, but noted that it is up to NGOs whether to follow them and that still not all NGOs are familiar with them.<sup>348</sup> In fact, several indicated that they were not familiar with them or had little knowledge of them.<sup>349</sup> However, others consider them to be useful, as they provide structure and clear guidance on what is expected.<sup>350</sup>

For the first group of States under evaluation, it was noted that only few alternative reports were submitted and that the ones submitted were not published on GRETA's website.<sup>351</sup> However, the GRETA Secretariat noted that GRETA has received alternative reports from NGOs in most of the countries, but that differences exist between the single countries. In general, the alternative reports submitted are considered to be very useful. The Secretariat further outlined that GRETA encourages NGOs to submit alternative reports.<sup>352</sup> Alternative reporting is a very effective tool also according to LSI, as it provides the opportunity for NGOs to share their grassroots experiences with GRETA in a more direct way than by completing a questionnaire, providing the body with the exact information on how the Convention is implemented on the practical level. This channel also ensures that the information provided by the NGOs is very likely to be used and reflected in the report on the country, which can then be used for further – more effective – advocacy.<sup>353</sup> In order to ensure transparency, the Committee

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<sup>346</sup> La Strada International, *supra* footnote 285, p. 1.

<sup>347</sup> Email from Marieke van Doorninck, Advisor Public Affairs, La Strada International, 4 May 2015.

<sup>348</sup> Email from Petya Nestorova, Executive Secretary of the Council of Europe Convention on Action against Trafficking in Human Beings, GRETA, 22 May 2015.

<sup>349</sup> Email from Simona Marchisella and Cristina Garavoglia, Responsible for the Project on Prostitution and Human Trafficking, Gruppo Abele onlus, 6 May 2015; Email from Julia Planitzer, Researcher, Ludwig Boltzmann Institute of Human Rights, 17 May 2015; Email from anonymous NGO, 15 May 2015.

<sup>350</sup> Email from Chloe Setter, Head of Advocacy, Policy & Campaigns (Child Trafficking), ECPAT UK, 1 May 2015.

<sup>351</sup> Planitzer, 2012, p. 41.

<sup>352</sup> Email from Petya Nestorova, Executive Secretary of the Council of Europe Convention on Action against Trafficking in Human Beings, GRETA, 22 May 2015.

<sup>353</sup> Email from Marieke van Doorninck, Advisor Public Affairs, La Strada International, 4 May 2015.



of the Parties noted that also alternative reports should be made publicly available or at least made accessible for the national contact person.<sup>354</sup> However, in the author's opinion, publication may constitute a deterrent for NGOs to submit alternative reports. They may prefer to remain anonymous and, in case they are not in a position to openly express their concerns, their anonymity should be ensured.

Concluding, as indicated by NGOs such as LSI, alternative reporting is a very effective tool for NGOs to express their views, also because information is more likely to be taken into account. Again, it is a channel through which NGOs can participate and contribute directly to the monitoring process, without having to pass their information on to the State beforehand. Willingness and experience to submit alternative reports depend, however, on the situation of the NGOs and their position in the specific country context.

### **3. Case studies**

#### **3.1 Austria**

For the first evaluation report on Austria, NGOs were involved through the channel of consultation by the State, as members of the Task Force on Combating Human Trafficking Austria, and through the submission of an alternative report. In addition, GRETA conducted a country visit to Austria, where it also met with NGOs. GRETA held consultations with four non-governmental organisations and other organisations, namely ECPAT – Austria, EXIT, the Intervention Centre for Migrant Women Affected by Human Trafficking (LEFÖ-IBF) and the Ludwig Boltzmann Institute of Human Rights.<sup>355</sup> In its report, GRETA refers to NGOs as an important source of information in several contexts. For instance, the government did not provide information on the exact number of victims of trafficking who have benefitted from a recovery and reflection period and NGOs indicated that the number is very low and that the period is granted only to victims who decide to co-operate with the law enforcement authorities.<sup>356</sup> The

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<sup>354</sup> Meeting report of the 14th meeting of the Committee of the Parties, THB-CP(2014)RAP14, p. 4.

<sup>355</sup> Report concerning the implementation by Austria, GRETA(2011)10, p. 41.

<sup>356</sup> *Ibidem*, p. 26.

same scenario applies to the information regarding the number of victims who have been granted a residence permit.<sup>357</sup>

The organisations that replied to the survey conducted for this research are the Ludwig Boltzmann Institute of Human Rights and an NGO that requested to remain anonymous. The Ludwig Boltzmann Institute of Human Rights (BIM) was involved in the monitoring process through consultation during GRETA's first country visit to Austria.<sup>358</sup> It expressed the view that alternative reporting is a very useful tool, but that guidelines should be developed, providing guidance on issues such as the length of the report or the deadline for reporting.<sup>359</sup> The Institute stated that it partly contributed to the alternative report submitted by LEFÖ-IBF for the first evaluation round, but that for the second round no further exchange on this issue took place. The publication of the government's replies to the questionnaire was indicated as being very important. Regarding the effectiveness of the NGO's involvement in the monitoring process, the Institute stated that it is very important and that the information was taken into account. The meetings during the country visits were considered to be important but very time-consuming, therefore it was recommended to meet NGOs individually, instead of having big meetings with a large number of NGOs. In addition, more involvement of NGOs before the visit, by motivating NGOs to submit alternative reports, would also be welcomed. As the Ludwig Boltzmann does not work directly with trafficked persons, no consultations with victims took place when providing information.<sup>360</sup>

The NGO that requested to stay anonymous indicated that it provided information to GRETA upon request by GRETA itself, during the drafting of the State's reply to the questionnaire as a member of the Task Force on Combating Trafficking in Human Beings Austria and during the country visit. The NGO stated that in its view, alternative reporting is not a useful tool, at least not so far and not for the NGO concerned, as it does not have the resources for preparing a report without external funding or support. As for the effectiveness of NGOs' involvement in the monitoring process, the NGO

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<sup>357</sup> *Ibidem*, p. 27.

<sup>358</sup> In order to avoid the impression of a conflict of interests, it has to be clarified that the consultation of the BIM, where Mr. Helmut Sax is the head of the department on Women's Rights, Children's Rights and Anti-Trafficking, was prior to the election of Mr. Sax as a member of GRETA in 2011.

<sup>359</sup> Email from Julia Planitzer, Researcher, Ludwig Boltzmann Institute of Human Rights, 17 May 2015.

<sup>360</sup> *Ibidem*.

indicated a satisfactory inclusion of its inputs into GRETA's report. However, it noted that even in case NGOs are part of official structures for preparing the government's reply as in Austria, it remains important to consult NGOs separately.<sup>361</sup>

### 3.2 Italy

For the first evaluation report on Italy, the Italian government consulted with the NGOs Gruppo Abele, Penelope Italia and Parsec<sup>362</sup> and GRETA conducted a country visit, including meetings with NGOs and visits to shelters run by NGOs where assistance was provided. In addition, GRETA held consultations with 13 non-governmental organisations, namely Amnesty International Italy, the association of lawyers specialised in immigration issues (ASGI), the Associazione Micaela Onlus, Be Free Cooperativa Sociale, the Co-ordinating National Community of Hospitality Network (CNCA), the trade union CGIL, the trade union CISL, the Cooperativa Sociale Dedalus, ECPAT Italy, On the Road Onlus, the Salvation Army Italy, the trade union UIL and the Italian Union of Women Major Superiors (USMI).<sup>363</sup> In its report, GRETA refers to NGOs as a critical voice in the context of their opinion on several legislative measures taken by the government and as important alternative sources of information complementing the information provided by the authorities.<sup>364</sup>

Out of these 13, only three replied to the survey conducted for this research. One NGO indicated that time factors did not allow it to complete the questionnaire.<sup>365</sup> The two NGOs that filled in the questionnaire are Gruppo Abele and The Salvation Army Italy. The Salvation Army Italy was involved in the monitoring process upon information request by GRETA and during the country visit of GRETA to Italy. According to the Salvation Army Italy, alternative reporting can be useful, but not always accurate.<sup>366</sup> The NGO indicated that it would not really welcome the publication of the State's reply in order to be able to comment on it. It has to be noted however, that the reply of the Italian authorities was made public and is available online. Apparently, there has been a

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<sup>361</sup> Email from anonymous NGO, 15 May 2015.

<sup>362</sup> Reply from Italy to the Questionnaire, GRETA(2014)2, pp. 5 – 6.

<sup>363</sup> Report concerning the implementation by Italy, GRETA(2014)18, p. 56.

<sup>364</sup> *Ibidem*, pp. 30, 31 and 34.

<sup>365</sup> Email from Eugenia Bonetti, Responsible for the sector Human Trafficking, Unione Superiore Maggiori d'Italia (USMI), 15 May 2015.

<sup>366</sup> Email from Estelle Blake, Head of the Anti-trafficking Unit, The Salvation Army Italy, 19 May 2015.

misunderstanding. The Salvation Army Italy was also involved in a one on one meeting with GRETA and considered this to be useful for all concerned. The fact that groups were invited to different input sessions was especially well received. To the question of whether victims of trafficking were directly consulted with, the Salvation Army pointed to the fact that it is at an early stage of its work, and that the question is therefore not relevant.<sup>367</sup>

The second NGO, Gruppo Abele onlus, was involved in the monitoring process through consultation by the State when preparing its replies to GRETA's questionnaire.<sup>368</sup> In the NGO's opinion, alternative reporting is a useful tool to express the NGOs' view, as it enables a specific analysis of the range of different activities they deal with. It further pointed to the existence of various roundtables for preparing alternative reports in which Gruppo Abele is a partner, such as the Caritas platform against human trafficking. Gruppo Abele published several reports on human trafficking, also in collaboration with other NGOs and public authorities, drawing from their constant data collection about the victims, their stories and characteristics. The NGO stated that the consultation with NGOs in the monitoring process is really important because it enables a description of the real situation and could help to bring about significant changes.<sup>369</sup>

### **3.3 United Kingdom**

For the first evaluation report on the UK, NGOs took the opportunity to provide information through the submission of an alternative report elaborated by the NGO network of the Anti-Trafficking Monitoring Group. In addition, GRETA conducted a country visit, where it met NGOs and visited several shelters run by NGOs. GRETA held consultations with 26 NGOs and other non-governmental actors, namely Africans Unite Against Child Abuse (AFRUCA) UK, Anti-Slavery International, Black Association of Women Step Out (BAWSO), The Bromley Trust, City Hearts, Comic Relief, ECPAT UK, the Helen Bamber Foundation, the Human Trafficking Foundation, the Immigration Law Practitioner Association, the Joseph Rowntree Foundation, Kalayaan, Law Centre (Northern Ireland), the Legal Services Agencies Ltd. (Scotland),

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<sup>367</sup> *Ibidem*.

<sup>368</sup> Reply from Italy to the Questionnaire, GRETA(2014)2, pp. 5 – 6.

<sup>369</sup> Email from Simona Marchisella and Cristina Garavoglia, Responsible for the Project on Prostitution and Human Trafficking, Gruppo Abele onlus, 6 May 2015.

Migrant Helpline, the North Kensington Law Centre, the POPPY Project, the Refugee Council, the Salvation Army, the Scottish Refugee Council, Stop the Traffik, TARA Scotland, the Trade Union Congress, Unite the union, Unseen UK and Women's Aid (Belfast).<sup>370</sup> In its evaluation report, GRETA often refers to NGOs as important sources of information, drawing their knowledge from their experiences with victims or the authorities<sup>371</sup> and as critical voice on the governments' initiatives.<sup>372</sup>

Among the NGOs contacted for the written survey carried out for this research, several NGOs indicated that they didn't have the human resources or the time to fill in the questionnaire.<sup>373</sup>

ECPAT UK was the only NGO that completed the questionnaire. The NGO indicated that its involvement in the monitoring process occurred by submitting an alternative report, considered to be a useful tool to express the NGO's views, as it can check and balance the governmental reports and activities and can also provide a "ground level" perspective along with the policy level. ECPAT UK is also part of the Anti-Trafficking Monitoring Group, responsible for monitoring the implementation of the Convention by the UK. In this setting, ECPAT UK is involved in regular research reports functioning as alternative reports to the State's reports, which are considered to contain "no depth, accountability and can be prone to bias".<sup>374</sup> ECPAT UK also indicated that its alternative report was published, that the government's reply to GRETA's questionnaire was made public and that ECPAT UK took the chance to comment on it.<sup>375</sup> It has to be noted, however, that the UK's reply has not been published on GRETA's website and that consequently it can be assumed that ECPAT UK has been able to access the replies in another way.

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<sup>370</sup> Report concerning the implementation by the UK, GRETA(2012)6, p. 92.

<sup>371</sup> *Ibidem*, pp. 46, 48, 54, 67, 69, 77 and 83.

<sup>372</sup> *Ibidem*, pp. 32, 48, 57, 66, 68

<sup>373</sup> Email from Debbie Ariyo, Executive Director, AFRUCA, 11 May 2015; Email from Lena Bodner, Casework assistant, Help-desk and administrator, Kalayaan, 23 April 2015; The Human Trafficking Foundation pointed to a blanket ban against its employees participating in University coursework and dissertations, see Email from Emma Wade, Parliamentary and External Relations Manager, Human Trafficking Foundation, 12 May 2015.

<sup>374</sup> Email from Chloe Setter, Head of Advocacy, Policy & Campaigns (Child Trafficking), ECPAT UK, 1 May 2015.

<sup>375</sup> *Ibidem*.

Regarding the effectiveness of the NGOs' involvement in the monitoring process, ECPAT UK indicated that their inputs were taken into account and that key recommendations issued by GRETA were based on the alternative report submitted, especially concerning aspects on children. In its view, the involvement of NGOs is very important and useful, as the government's interest is to report positively about its activities. Therefore, it is considered to be important that NGOs engage honestly and provide evidence, in order to draw a realistic and detailed picture on the situation in the country. Regarding the question of how far victims of trafficking are consulted with when providing information in the monitoring process, ECPAT UK pointed to the fact that its inputs and recommendations are based on its work with young victims of trafficking and their experiences and voices.<sup>376</sup>

#### **4. Comparative analysis**

From what derives from the replies to the survey conducted for this research, the following considerations can be made.

As far as the channel of consultation by the State while preparing its reply is concerned, information is available only with regard to Austria and Italy, where consultation with NGOs took place. In Austria, the membership of NGOs in the Task Force enables the joint preparation of the government's reply and thus the inclusion of the NGOs' views already therein. The fact that the reply has been prepared jointly is also reflected in the kind of issues where GRETA noted divergent information, concerning mainly data-issues,<sup>377</sup> while in the reports concerning Italy and the UK, GRETA refers to the NGOs' critical voices on the government's initiatives.<sup>378</sup> This, again, shows that inclusion of NGOs' input in policy-developing is a very good way to take appropriate steps and improve action, before investing in measures later criticised. In addition, even though the publication of the States' replies is generally considered to be very important, the respondent NGOs already had the chance to comment on it as members of the Task Force. However, NGOs indicated that it is nevertheless important to consult separately

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<sup>376</sup> *Ibidem*.

<sup>377</sup> Report concerning the implementation by Austria, GRETA(2011)10, p. 26.

<sup>378</sup> See, respectively, Report concerning the implementation by Italy, GRETA(2014)18, p. 30; Report concerning the implementation by the UK, GRETA(2012)6, pp. 32, 48, 57, 66, 68.

with NGOs.<sup>379</sup> In Italy, no such setting exists, making consultation with NGOs dependent on the government's discretion. While consultation took place in the first evaluation round, this may change if NGOs are too critical, triggering a deterrent effect for NGOs to express criticism. In addition, a consultation by the State faces the risk that inputs are not taken into account. In Italy, misunderstandings concerning the publication of the State's reply to GRETA's questionnaire indicate general miscommunication among the various actors, again related to the absence of a co-ordinating structure including all actors, strongly needed.

Also the channels of information requests by GRETA and the submission of alternative reports were used. It has to be noted that the survey conducted by LSI revealed that NGOs sometimes considered information requests by GRETA to be not clear enough on what is expected from the respondent and regretted the fact that they only give the opportunity to reply to a questionnaire.<sup>380</sup> While in Austria and in Italy, NGOs pointed out that the lack of capacity or experience can preclude them from submitting an alternative report or replying to GRETA's information requests or can make the reports not always accurate,<sup>381</sup> NGOs in the UK found alternative reports a very useful tool.<sup>382</sup> In fact, in the UK, the Anti-Trafficking Monitoring Group provides NGOs with the opportunity to work together and prepare reports on the implementation of the Convention by the UK. In the author's view, such networks are a very useful channel to gather information and raise issues, joining forces among the NGOs and backing each other up. In this case, it is not the single NGO that has to raise its critical voice against the authority that can also be its partner, a scenario for which the NGO may be discouraged from criticising.

GRETA also carried out country visits to all three countries, which were well received by NGOs and considered to be effective and very useful for all actors concerned.<sup>383</sup>

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<sup>379</sup> Email from anonymous NGO, 15 May 2015.

<sup>380</sup> La Strada International, *supra* footnote 285, p. 1.

<sup>381</sup> Email from anonymous NGO, 15 May 2015; Email from Estelle Blake, Head of the Anti-trafficking Unit, The Salvation Army Italy, 19 May 2015.

<sup>382</sup> Email from Chloe Setter, Head of Advocacy, Policy & Campaigns (Child Trafficking), ECPAT UK, 1 May 2015.

<sup>383</sup> Email from Julia Planitzer, Researcher, Ludwig Boltzmann Institute of Human Rights, 17 May 2015; Email from anonymous NGO, 15 May 2015.

As regards the question of in how far victims were consulted, it has to be noted that while ECPAT UK indicated to base all its inputs on its work with victims, none of the other respondents stated to directly consult with victims of trafficking.

From all this derives that, also in the perception of NGOs, consultation with NGOs during GRETA's country visits is considered to be the most effective channel to provide information. On a general note, the channels through which NGOs can inform GRETA directly are considered to be more effective, also in terms of the issue of their independence from the State authority – partner in strategic partnerships. But while information requests and alternative reports may not be available due to lack of capacities or experience, country visits provide for a very effective and productive opportunity for discussion, sharing experiences and providing information. The fact that the meetings during country visits have to be organised directly between GRETA and NGOs is another factor that helps to maintain the NGOs' independence.



## Conclusions

Taking into due account all of the considerations above, the following conclusions can be made. The two key roles envisaged for NGOs by the CoE Convention against Trafficking, as partners to the States to implement the provisions contained in the Convention and as critical watchdogs providing information to GRETA, are closely interrelated.

Both roles are very important. According to the Convention, the implementation of its provisions is best achieved through co-operation and strategic partnerships among the actors concerned. In fact, NGOs are essential partners for the State in all areas of action, from prevention to identification, assistance, repatriation and return and assistance during criminal proceedings. Also NGOs themselves perceive partnerships as crucial for their work. However, it can generally be noted that with the divergence of interests, co-operation may become difficult. For instance, while NGOs aim to ensure identification and access to assistance for victims in order to protect them, the authorities pursue primarily the aim of getting them to testify against the perpetrators and of building a criminal case. A particularly difficult area concerns the risk of immediate deportations of victims of trafficking without screening the person for human trafficking indicators and thus the identification of victims in detention centres, being the authorities' focus primarily on fighting irregular migration.

Their second main role is to monitor the government's actions and to provide information on the practical implementation of the measures taken. Such information always has to be backed with evidence, which NGOs can draw from their research activities or their direct work with victims. It emerges that their co-operation with the State is important also to get information and a more comprehensive picture. This can be seen as a first point of contact, as without the first main role, NGOs would not be in a position to carry out their second key role properly. The relationship also goes in the other direction. In fact, raising issues with GRETA helps to ensure that gaps are identified and the State pressured to adapt its actions. Without NGOs monitoring and

criticising, also by providing information to GRETA, the issues to be raised would probably remain obscure, considering that NGOs are more aware of the reality on the ground. It can be noted that the higher the degree to which NGOs are involved in partnerships and co-operation with the State, the more quality information they can provide. However, involvement should not be exaggerated, in the sense that NGOs cannot be asked to take over the government's role and responsibilities. It is therefore crucial that roles are clearly divided, so as to ensure the NGOs' independence from the State-partner, thereby ensuring that they are willing to provide information and express their concerns. Formalised partnerships are therefore the preferable form of co-operation, where NGOs can enjoy a more secure and independent position. In fact, where co-operation is incidental, there is a risk that the government ceases co-operation if an NGO is too critical. It has to be kept in mind that the Convention only encourages partnerships, leaving it to the discretion of the Parties whether and in which form to establish co-operation.

The case studies have shown that the involvement of NGOs on the institutional level and in policy-making processes is the best way to improve action, as is the case in Austria and partially in the UK. In fact, it is considered to be beneficial to all interested actors. Joining forces, NGOs have the opportunity to share their expertise and give their inputs in such settings, while the authorities can benefit from their experiences when developing policies and investing in measures that could otherwise turn out to be inadequate or ineffective and criticised afterwards. It has to be noted that in countries where NGOs are not involved on the institutional level, their inclusion in the monitoring process, in particular through channels providing information directly to GRETA, becomes even more important, but also more difficult, as they don't dispose of so much information and may lack the comprehensive picture of the situation, as is the case in Italy.

It follows that the relationship between the NGOs' two key roles can be represented as a circle. The better the NGOs' involvement in the measures taken, preferably already in the stage of policy-making, the broader their vision and knowledge will be. They can then share such information, ideally with the authorities on the occasion of co-operation on the institutional level and policy development, or with GRETA in the monitoring

process. The recommendations made by GRETA in its reports, based on the information provided and issues raised by the NGOs, can then serve as a basis for NGOs to put pressure on their governments. Finally, their pressure will possibly bring a change in the government's policy and also more inclusion of NGOs, thus closing the circle. The precondition for the effective functioning of this circle is the NGOs' independence from the State. In case NGOs do not enjoy full independence, they may be hindered from carrying out their role as critical watchdogs and the circle is at risk of breaking. Here, the possibility to provide information directly to GRETA, while remaining anonymous, is crucial.

In order to make this circle work better, the following recommendations can be made. First of all, the Council of Europe should more strongly encourage States to develop formalised procedures for co-operation.<sup>384</sup> Secondly, States should consider fully involving NGOs in institutional settings and at policy-making level, as such involvement is beneficial to all actors concerned. Furthermore, the issue of the NGOs' independence, in terms of them being pressured by the State or underfinanced, should be included as a separate and specific point in the monitoring.<sup>385</sup>

Generally, it can be noted that the consultation of NGOs in the preparation of the States' replies and the publication of the latter should be more encouraged. On a positive note, the change in the wording of the rules of procedure on this matter can be recalled.<sup>386</sup> In addition and in order to avoid misunderstandings, in case a report is initially not made publicly available and only published later, this should be communicated to NGOs by the State or by GRETA.

It would be further recommendable to formulate information requests more precisely, clarifying what exactly is expected and requested from NGOs. Alternative reports should be encouraged more. As the most effective way of consultation with NGOs, country visits are strongly recommended to remain part of GRETA's monitoring work. In this regard, it can be noted that NGOs recommended that meetings during country

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<sup>384</sup> Email from anonymous NGO, 15 May 2015.

<sup>385</sup> Email from Marieke van Doorninck, Advisor Public Affairs, La Strada International, 4 May 2015.

<sup>386</sup> While according to the old rules of procedure, the States' replies were treated as confidential unless the State concerned requests publication, the new rules state that the replies are published unless otherwise requested by the State concerned.

visits could be longer and that the opportunity to meet individual NGOs should be provided for, as some NGOs do not feel free to speak even in front of other NGOs.<sup>387</sup> There should also be more involvement of NGOs already before the meetings, for example by encouraging them – if possible and depending on the NGOs’ capacities – to submit alternative reports, as to already have a basis for discussion during the meeting.<sup>388</sup>

Finally, a direct consultation with victims of trafficking would be recommendable. Consulting the persons concerned directly would not only ensure a full implementation of a human rights based approach,<sup>389</sup> but also give more authority to the NGOs’ arguments. Moreover, in case NGOs are not fully independent and thus not in a position of being able to openly express their critical voice, the fact that criticism comes from the victim and not from the NGO could help to prevent situations where the NGO has to risk its co-operation with the State or to decide to not exercise its role as critical watchdog.

As can be seen, the two key roles of NGOs envisaged in the CoE Convention are interrelated and interdependent. Even though sometimes difficulties may arise, both roles need to be ensured and preferably combined them through formalising co-operation between all actors involved. This is beneficial to all interested parties and ensures more effective action against the hideous crime of trafficking in human beings.

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<sup>387</sup> La Strada International, *supra* footnote 285, pp. 1 – 2.

<sup>388</sup> Email from Julia Planitzer, Researcher, Ludwig Boltzmann Institute of Human Rights, 17 May 2015.

<sup>389</sup> Planitzer, 2014, pp. 122 – 123.

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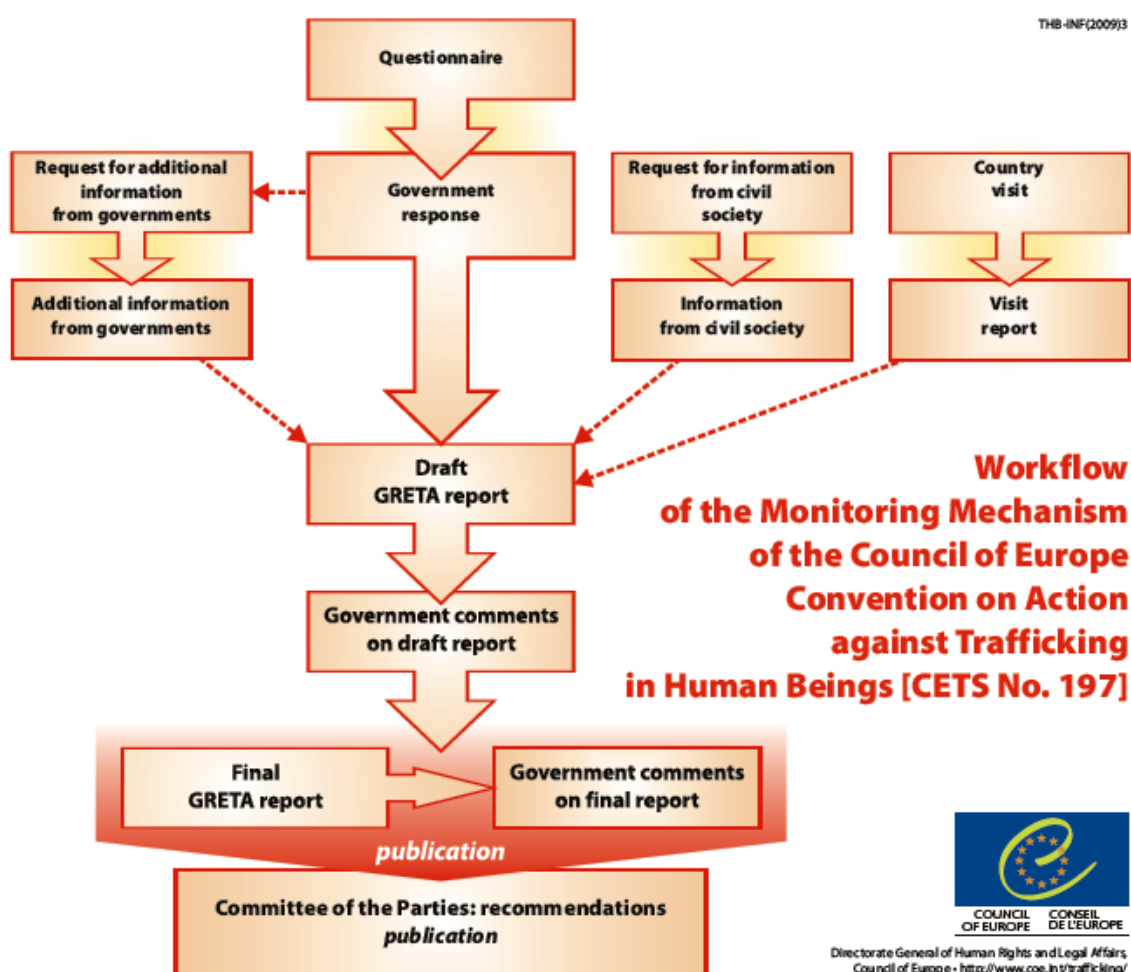
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MEN VIA: MEN-CENTER website, available at [www.men-center.at/typo2013/typo3/via.html](http://www.men-center.at/typo2013/typo3/via.html) (consulted on 15 May 2015).

NO TRATTA website, available at [www.nostratta.it/](http://www.nostratta.it/) (consulted on 31 May 2015).

# Appendix I:

## Workflow of the Monitoring Mechanism of the Council of Europe Convention on Action against Trafficking in Human Beings



Council of Europe, Workflow of the Monitoring Mechanism of the Council of Europe Convention on Action against Trafficking in Human Beings, available at [www.coe.int/t/dghl/monitoring/trafficking/Source/Workflow\\_en.pdf](http://www.coe.int/t/dghl/monitoring/trafficking/Source/Workflow_en.pdf) (consulted on 11 July 2015).



# Appendix II:

## Questionnaire for NGOs

### Survey concerning the role of NGOs in the Council of Europe Convention on Action against Trafficking in Human Beings

Name of NGO:

- International NGO
- National, regional or local NGO (please, indicate):

Main area(s) of work, main target group(s) and main services offered to victims of trafficking:

### Part I: NGOs as source of information in the monitoring process conducted by the Group of Experts on Action against Trafficking in Human Beings

The channels through which NGOs can provide information in the monitoring process are four. Article 38 paragraph 3 of the Convention provides that the Group of Experts on Action against Trafficking in Human Beings (GRETA) may request information from civil society. Furthermore, NGOs can be consulted by the States when drafting their replies to the questionnaire or by GRETA during a country visit. They also have the possibility to submit alternative reports.

1) Was your NGO involved in the monitoring process conducted by GRETA?

- Yes
- No

2) If yes, how? Please, indicate (more than one answer is possible):

- Information request by GRETA?
- During the draft of the State's reply to the questionnaire?
  - upon request by the State?
  - after pressure from your NGO to be involved?
- During country visit of GRETA?
- Submitting an alternative report?

3) Do you consider alternative reporting a useful tool to express your NGO's view?

Please, comment:

3.1) To what extent are you aware of guidelines on reporting developed by NGOs, for example the guidelines for NGOs on how to report to GRETA developed by Anti-Slavery International and La Strada International (available at <http://lastradainternational.org/lisidocs/Guidance%20for%20NGOs%20to%20report%20to%20GRETA.pdf>), and in how far do you consider them useful? Please, comment:

3.2) Do there exist platforms or other forms of exchange of ideas between NGOs in your country for preparing alternative reports? If yes, please describe your experience:

3.3) Was your NGO's alternative report published (in case your NGO did submit one)?

4) Was your State's reply to GRETA's questionnaire made public?

4.1) If yes, did you take the chance to comment on it?

4.2) If no, would you welcome the publication in order to be able to comment on it?

5) In how far were your inputs taken into account by GRETA in its report? Please, comment:

6) How do you perceive the effectiveness of the NGO's involvement in the monitoring process? Do you have any recommendations to make? Please, comment:

7) In how far do you consult with victims of trafficking when providing information in the monitoring process? Please, comment:

8) Any further comments concerning the NGOs' role as source of information for GRETA?

## **Part II: Co-operation and strategic partnerships between NGOs and State authorities and public officials**

The Convention encourages the involvement of NGOs in the measures taken by the Parties to implement the Convention, for example in the areas of prevention (articles 5 and 6), identification (article 10), assistance (article 12) and repatriation and return of victims (article 16). Furthermore, article 35 of the Convention provides that “each Party shall encourage state authorities and public officials, to co-operate with non-governmental organisations, other relevant organisations and members of civil society, in establishing strategic partnerships with the aim of achieving the purpose of this Convention”.

1) How do you perceive the importance and effectiveness of such partnerships in your country, for example in the areas of victim identification, assistance, trainings or in developing National Action Plans?

2) Is your NGO involved in such partnerships and how are they carried out in practice? Please, comment:

2.1) Is your NGO involved in the victim identification process? If yes, is there a cooperative framework put in place between your NGO and the national authorities? How do you perceive the practical implementation of such framework? Please, comment:

3) According to your experience, in how far can such partnerships have drawbacks for your role as independent member of civil society and critical watchdog? Please, comment:

4) Any further comments concerning co-operation and strategic partnerships between anti-trafficking NGOs and State authorities and public officials?

## **Appendix III:**

### **Questionnaire for La Strada International**

#### **Part I: Co-operation between GRETA and NGOs**

1) Please describe your co-operation with GRETA:

#### **Part II: NGOs as source of information in the monitoring process conducted by the Group of Experts on Action against Trafficking in Human Beings**

1) How does La Strada International perceive the effectiveness/adequacy of the NGOs' involvement as source of information in the monitoring process? Do you have any recommendations to make? Please, comment:

2) Together with Anti-Slavery International, La Strada International has developed guidance for NGOs on how to report to GRETA. What are your plans concerning further dissemination/development/adaption? Please, comment:

3) According to La Strada International, in how far is alternative reporting a useful/effective tool for NGOs to express their views? Please, comment:

4) Do you have any further comments?

#### **Part III: Co-operation and strategic partnerships between NGOs and State authorities and public officials**

1) How do you perceive the importance and effectiveness of such partnerships, for example in the areas of victim identification, assistance, trainings or in developing National Action Plans?

2) According to your experience, in how far can such partnerships have drawbacks for the role as independent member of civil society and critical watchdog? Please, comment:

3) Any further comments concerning co-operation and strategic partnerships between anti-trafficking NGOs and State authorities and public officials?

# Appendix IV:

## Questionnaire for GRETA

### Part I: NGOs as source of information in the monitoring process conducted by the Group of Experts on Action against Trafficking in Human Beings

1) How does GRETA perceive the effectiveness of the NGOs' involvement as source of information in the monitoring process? Does GRETA have any recommendations to make? Please, comment:

2) How does GRETA choose the NGOs to be consulted? Does GRETA follow any specific criteria in the selection (other than the ones established by rule 8 of the amended rules of procedure for evaluating implementation of the Convention)? Please, comment:

3) What is GRETA's general experience when requesting information from NGOs? Do they reply timely/exhaustively/not at all/other? Please, comment:

4) How does GRETA perceive the readiness of NGOs to participate in meetings during GRETA's country visits? Please, comment:

5) Does GRETA receive regularly alternative reports? In how far does alternative reporting constitute a useful and effective tool to report to GRETA? To what extent does GRETA encourage alternative reporting? Please, comment:

6) NGOs such as Anti-Slavery International and La Strada International have developed guidelines for NGOs on how to report to GRETA. Does GRETA consider these guidelines useful/complete/followed? Please, comment:

**Part II: Co-operation and strategic partnerships between NGOs and State authorities and public officials**

1) Can you provide good practice examples with regard to co-operation and strategic partnerships between NGOs and State authorities and public officials?

2) If possible, please indicate briefly the main issues/difficulties concerning such co-operation and partnerships: