



Organization for Security and Co-operation in Europe

Special Representative and Co-ordinator for Combating Trafficking in Human Beings

Foreword

On 22-24 June 2021, I had the pleasure of paying an official visit to Bulgaria to hold consultations with high-level government officials, law-enforcement, judiciary as well as representatives of civil society and international organizations involved in the field of anti-trafficking.

The objectives of the visit were to identify promising practices for combating trafficking in human beings (THB) as well as to promote the full implementation of OSCE commitments in the field of anti-trafficking, notably holistic and comprehensive actions aiming to better prevent and respond to human trafficking and to protect and support its victims. I greatly appreciated the constructive discussions held and I was pleased to observe the inspiring commitment of practitioners to further anti-trafficking responses in the country.

The Report was presented to the Delegation of Bulgaria on 13 July 2022. The Delegation submitted its final comments on 13 September 2022.

As a country primarily of origin for various forms of trafficking in Europe, Bulgaria has developed solid legislative, policy and institutional frameworks to prevent and combat trafficking in human beings. Bulgaria's National Commission for Combating Trafficking in Human Beings (NCCTHB) is among the promising anti-trafficking structures with a broad mandate that encompasses not only co-ordination of anti-trafficking efforts in the country but also co-ordination of National Referral Mechanism (NRM). However, high-level attention to combating all forms of human trafficking is needed – and would further support - the good work being done by the NCCTHB and practitioners on the ground. And finally, given the extensive discussions I had with practitioners on the application of national and international law in the criminal justice response to trafficking, I am delighted to learn about the request of the Prosecutor General submitted to the Constitutional Court to expand the application of non-punishment principle.

By encouraging relevant authorities to implement the comprehensive set of recommendations made in this report, I look forward to deepening our established collaboration and to furthering our future co-operation in the best interest of the most vulnerable and disadvantaged members of society.

A handwritten signature in blue ink, appearing to read 'Valiant Richey'.

Valiant Richey

Special Representative and Co-ordinator for Combating Trafficking in Human Beings

**Report by the OSCE Special Representative and Co-ordinator for Combating
Trafficking in Human Beings, Valiant Richey following the country visit to
Bulgaria
22-24 June 2021¹**

Summary:

The OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings, Valiant Richey, conducted an official visit to Bulgaria from 22 to 25 June 2021 to assess the country's anti-trafficking laws, policies and practices. During the visit, special attention was paid toward efforts aimed at preventing human trafficking; protecting the rights of, and providing assistance to, trafficked persons; and prosecuting perpetrators in line with OSCE commitments and relevant international standards.

The Special Representative commends Bulgaria for developing and adopting a robust legal framework to prevent and combat trafficking in human beings. He affirms that placing prevention at the forefront of anti-trafficking efforts in the country is the right approach given that Bulgaria is one of the top countries of origin for trafficking victims in Europe. He welcomes the expansive approach to co-ordination of anti-trafficking actions through the establishment and operation of local commissions under the guidance of the National Commission for Combating Trafficking in Human Beings (NCCTHB). He commends the professional team of the NCCTHB Secretariat which has the leading role in designing, implementing, and monitoring national anti-trafficking programs and initiatives.

The Special Representative also wishes to share several key observations and concerns with regard to specific actions and challenges in the country's anti-trafficking response. He calls on the authorities to swiftly appoint a senior government official to the key position of the Executive Secretary to the NCCTHB who should fulfil the function of the country's national anti-trafficking co-ordinator. The need to fill and stabilize this position is particularly important given the rotation of the Chairman of the NCCTHB between various deputy prime ministers as a result of frequent changes in the government. It is also of the utmost importance that the Secretariat to the NCCTHB be supported with adequate financial and human resources to fulfil its broad mandate as the national co-ordinator of the National Referral Mechanism (NRM) and designer and implementer of country's prevention activities.

¹ The Report was finalized on 13 July 2022

He notes with concern the barriers impeding victims' access to services, particularly to medical services. He also expresses his concerns about the lack of appreciation of the gravity of human trafficking offences by criminal justice practitioners, especially within the judiciary. This concern is particularly acute given the abnormally high rate of suspended sentences issued to traffickers and lengthy duration of criminal proceedings from investigation to adjudication of trafficking cases.

Below, the Special Representative makes several concrete recommendations to enhance Bulgaria's response, including development and timely adoption of the National Anti-Trafficking Strategy and the annual National Action Plan (NAP). These policy documents should be coordinated and aligned with other action plans and strategies, such as the national strategy on Roma and human rights, anti-corruption and anti-money laundering. Given Bulgaria's profile as a country of origin, targeted, sustainable and measurable prevention measures should be at the core of the upcoming anti-trafficking strategy.

Further recommendations expand on the urgent need for capacity building for criminal justice practitioners on the constituent elements of human trafficking and domestic legal doctrine; enhanced specialization of prosecution services and judges on human trafficking; and development of a dedicated guidance to all stakeholders on the key principles guiding anti-trafficking work. Finally, the Special Representative's recommendations include establishing a fully independent, adequately resourced National Rapporteur to oversee and evaluate the anti-trafficking work in the country.

I. Introduction

1. This Report presents the central findings and recommendations of OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings, Valiant Richey, (hereinafter referred to as the Special Representative) following his country visit to Bulgaria on 22 – 24 June 2021.²
2. The purpose of the visit was to hold consultations with government officials and experts from state institutions and civil society to learn of promising practices as well as to support and advance ongoing efforts to prevent trafficking, assist trafficked persons and protect their rights, and bring perpetrators to justice in line with OSCE commitments and relevant international standards.
3. In the course of the visit, the Special Representative engaged in direct consultations with high-level government officials in Sofia, including the Deputy Prime Minister for Public Order and Security, Minister of Interior and the Chairperson of the National Committee for Combating Trafficking Human Beings, Boyko Rashkov; the then-Acting Secretary of the National Committee Dobryana Petkova; the Ministry of Interior's General Directorate Combating Organized Crime; General Directorate National Police, Criminal Police Directorate; General Directorate Border Police; the Ministry of Justice; National Council for Assistance and Compensation to Victims of Crime; the National Bureau for Legal Aid; the Ministry of Foreign Affairs; the

² The Special Representative was accompanied by Programme Officer, Katharina Thorn and Assistant Officer Evan Karr

Prosecutor's Office; the National Investigation Service; the Supreme Court of Cassation; the State Agency for Refugees; the Commission for Anti-Corruption and Illegal Assets Forfeiture; The Ministry of Labour and Social Policy; the Agency for Social Assistance; the State Agency for Child Protection; the Executive Agency Chief Labour Inspection; the Employment Agency; the Financial Intelligence Unit and the Ombudsman. The Special Representative also met online with international organizations, such as International Organization for Migration (IOM).

The Special Representative also held consultations with anti-trafficking NGOs and independent experts, including the Bulgarian Academy of Science, the Center for the Study of Democracy, A21, Animus Association Foundation, Parents Association, Bulgarian Center for Bioethics and the Bulgarian Family Planning and Sexual Health Association (BFBA). He also visited the shelter for adult victims of trafficking operated by NGOs and the Crisis Centre for Children.

4. The Special Representative wishes to thank the Bulgarian authorities, and in particular, the then-Acting Secretary of the NCCTHB, Dobryana Petkova, and her team, for their excellent co-operation and assistance in organizing and facilitating the visit. He also wishes to thank all interlocutors, including civil society and international organizations in Bulgaria, for their willingness to share their knowledge and insights.
5. Consultations during the visit focused on the situation of trafficking in human beings (THB) in the country and the ongoing policy, legislative, and practical responses to it. More specifically, attention was placed on the identification of, and the provision of assistance to, victims of all forms of trafficking, particularly children; the protection of victims' rights, including of migrant workers and asylum seekers; efforts in the area of prevention and countering the demand that fosters trafficking for the purposes of sexual and labour exploitation; co-operation with civil society and partnerships with public and private entities; and prosecutions and convictions of perpetrators.
6. Over the course of the visit, the Special Representative noted with appreciation that many government officials and civil society representatives demonstrated significant awareness and understanding of human trafficking as a serious violation of fundamental rights, knowledge of new human trafficking trends in the country, and a readiness to tackle new threats.
7. The Special Representative stressed the importance of ensuring the high political profile of the anti-trafficking agenda amid challenging aspects of turnover at the political level on anti-trafficking efforts. He highlighted the critical need for maintaining the prevention of THB as one of the key priorities on the government's agenda, and remaining vigilant in preventing exploitation within Bulgaria. He notes that a decline in high-level attention to the problem could jeopardize the important results already achieved.

II. Legal framework

8. The Special Representative commends Bulgaria for being a party to major international instruments in the fight against trafficking in human beings, such as the

United Nations Convention against Transnational Organized Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (“Palermo Protocol”), ratified 5 December 2001, and the Council of Europe Convention on Action against Trafficking in Human Beings, ratified on 17 April 2007.

The country has also ratified a number of Conventions addressing slavery and forced labour such as the ILO Forced Labour Convention No.29 ratified in 1932; the ILO Convention on the Abolition of Forced Labour No.105, ratified in 1999; the ILO Convention on Worst Forms of Child Labour No.182, ratified in 2000.

Bulgaria ratified the UN Convention on the Elimination of All Forms of Discrimination against Women in 1982 and the UN Convention on the Rights of the Child in 1991. The Optional Protocol on the involvement of children in armed conflict and on the Sale of Children, Child Prostitution and Child Pornography, were ratified in 2002.

9. The Special Representative recommends that Bulgaria sign and ratify ILO Convention 189 concerning Decent Work for Domestic Workers, which serves as an effective instrument for the prevention of THB for labour exploitation, especially for domestic servitude.³ The ratification of this Convention will advance efforts in preventing and addressing the exploitation of migrant domestic workers in the country.
10. The Special Representative further recommends that Bulgaria sign and ratify the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families. The ratification of this Convention is of particular importance to enhance protection mechanisms in the context of mixed migration flows.
11. Finally, the Special Representative further recommends that Bulgaria sign and ratify the Protocol of 2014 to the ILO Convention on Forced Labour No. 29. The protocol is an important legal instrument for States to take effective measures to prevent forced labour and provide victims with protection and access to remedies, including compensation.
12. Bulgaria is bound by the Directive 2011/36/EU of the European Parliament and the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims on combating THB.
13. As a participating State to the OSCE, Bulgaria has also pledged to implement the commitments it has undertaken in the OSCE framework, in particular the recommendations contained in the 2003 Action Plan to Combat Trafficking in Human Beings, as well as its 2005⁴ and 2013⁵ Addenda as well as numerous OSCE Ministerial Council Decisions.

³ OSCE, Unprotected Work, Invisible Exploitation: Trafficking for the Purpose of Domestic Servitude, Occasional Paper Series No. 4, 2010. Available at <http://www.osce.org/cthb/75804>

⁴ OSCE Permanent Council Decision No. 685 [Addendum to the OSCE Action Plan to Combat Trafficking in Human Beings: Addressing the Special needs of Child Victim of Trafficking for Protection and Assistance](#), PC.DEC/685

⁵ No.1107 [Addendum to the OSCE Action Plan to Combat Trafficking in Human Beings: One Decade Later](#), PC. DEC/1107/Corr.11

14. Domestically, human trafficking is criminalized through Criminal Code Articles 159a to 159d. The Criminal Code (CC) went through several amendments in 2006, 2009 and 2013 respectively which added a criminal offence for using the services of a victim, expanded the list of exploitative purposes, criminalized officials abusing their position to commit the offence of human trafficking and introduced the non-punishment principle in regard to trafficking victims. Article 159a, paragraph 1, provides for a broad list of exploitative purposes including for sexual activities, forced labour, dispossession of bodily organs or holding a person in forceful subjection. These acts are punishable by deprivation of liberty of two to eight years and a fine from BGN 3,000 to 12,000. If the acts under paragraph 1 have been committed against a minor - through the use of coercion or deception, kidnapping or illegal deprivation of liberty, abuse of status of dependency or power and through promising, giving away or receiving benefits - the punishment is deprivation of liberty from three to ten years and a fine from BGN 10,000 to 20,000. This penalty is further increased to a prison sentence from three to fifteen years and a fine from BGN 20,000 to 50,000 if the offence is committed against a pregnant women with the purpose of selling her child. Committing a trafficking offence with the involvement of border crossing is punishable with imprisonment of three to twelve years and a fine of up to BGN 10,000 to 20,000 and in cases of use of trafficking means the penalty is increased to imprisonment of five to twelve years.
15. Article 159c criminalizes the use of the services from trafficked persons “for lechery practices, for forced labour or begging, for removal of organs, tissue, cell or body fluids or for keeping her/him in servitude regardless of her/his consent”, without the need to demonstrate the knowledge of the user. This offence is punishable by imprisonment of three to ten years and a fine of BGN 10,000 to 20,000.

In principle, this provision would apply to those who use services of trafficking victims, in line with international provisions intending to discourage the demand that fosters all forms of exploitation, contained within Article 9(5) of the Palermo Protocol and relevant provisions of the Council of Europe Convention and the EU Anti-trafficking Directive (see para 63 for more detail). However, according to the explanatory note provided by prosecutors following the visit, as well as statements made by a judge of the Supreme Court of Cassation during the visit, the provision of Art. 159c of the CC applies to persons who use a victim of trafficking in human beings as a source of income or other tangible or intangible benefit. In the case of lewd acts, such benefits include the money made from the sale of sexual services by a victim of trafficking. Thus, in practice, in regard to the exploitation of victims of trafficking for lewd purposes, Art. 159c of the Penal Code applies to pimps, and not to the users of sexual services extracted from trafficking victims. This application renders the statute largely redundant, as pimps and those who provide premises for sexual services and lewd acts are also criminalized pursuant to Art 155 of the CC with the punishment by deprivation of liberty for up to five years and by a fine of BGN 1000 to BGN 5000. Moreover, the intent behind such provisions in other OSCE States – namely to address demand – has been negated. It is unclear why Art 159c is being used in lieu of Art 155 to criminalize pimping, and is not serving its intended purpose of penalizing the users of services of trafficking victims. To this end, the Special Representative is concerned that its practical application is being misdirected towards pimps instead of targeting the users of services, a deviation from the intended purpose of the statute which

contravenes the international framework on discouraging the demand that fosters exploitation. (see paragraph 49 for further details)

16. Article 159d prescribes punishment of five to fifteen years and a fine of BGN 20,000 thousand to 100,000, with the possibility of confiscation if the offender has a dangerous history of repeat offenses or has committed the offence by the order, or in execution, of a decision of an organized criminal group.
17. Other crimes relevant to human trafficking are criminalized in various Articles of the CC. Articles 177 and 178 criminalize forced and compulsory marriages with punishment from up to three years and up to one year or by a fine from BGN 100 to 300 and by public censure respectively. Forcing a minor into marriage is punishable by a prison sentence for up to five years. Illegal adoption is criminalized through Article 182a and is punishable by imprisonment of up to three years a fine of up to BGN 2,000. The penalty is two years imprisonment and a fine from up to BGN 3,000 for individuals who act as an intermediary with a view to obtain pecuniary benefit, between a person or a family wishing to adopt a child. Repeated commission of acts under paragraph 1 is punishable by imprisonment of up to three years and a fine of up to BGN 4,000.

Hiring five or more foreigners illegally staying within the territory of the Republic of Bulgaria is punished by imprisonment for up to four years and by a fine between BGN 2,000 to 20,000. If the act is committed systematically and under labour conditions contradictory to those enjoyed by legally hired persons or violates human dignity, the punishment is a prison sentence from one to five years and by a fine ranging from BGN 5,000 to 50,000.

18. The amendments made to the Criminal Code in 2013 included the pivotal principle of non-punishment for trafficking victims through the creation of Article 16a, which exonerates a trafficked person from punishment for offences forcefully committed due to person's trafficking situation. (see paragraph 59 for further details)
19. In 2003, the Bulgarian government adopted a dedicated Law on Combating Trafficking in Human Beings (Anti-Trafficking Law). The Law went through several amendments of which the most recent was made in 2019. The purposes of the Anti-Trafficking Law are to establish co-ordination and co-operation mechanisms and regulate the interaction, the powers and tasks of the state agencies (Chapter 2); to establish victim support services such as to regulate the work of shelters and the centres, (Chapter 3); provide for measures to prevent human trafficking (Chapter 4) and set out measures for protection measures for victims and grant a status of special protection to the victims of human trafficking who co-operate with criminal proceedings (Chapter 5). Furthermore, Article 4 establishes the National Commission for Combating Trafficking in Human Beings (NCCTHB) under the Council of Ministers of the Republic of Bulgaria and local commissions (see paragraph 23).
20. Overall, the Special Representative commends Bulgaria for its robust legislative framework to prevent and combat human trafficking and related crimes, including a dedicated Anti-trafficking Law. Nevertheless, there are several areas to further advance the law and its implementation. Interestingly, while international law requires

that the crime of trafficking be defined through a combination of the three constituent elements (act, means and purpose), the definition of trafficking in Article 159a of the CC only includes act and purpose of trafficking, and the trafficking means are listed as aggravated forms of trafficking. According to the Ministry of Justice, Article 124 of the Judicial System Act provides that in the event of contradictory practice, the Supreme Court of Cassation shall deliver a binding ruling on all judiciary bodies, administrative bodies and local authorities. Such a ruling on human trafficking was delivered by the court in 2009 which laid down a detailed interpretation of different forms of THB, and in particular with regards to application of CC Articles 159a and 159b. The court has elaborated on the circumstances of the level of punishment to be served in various cases. The Special Representative notes this approach might be useful to foster greater accountability of perpetrators since the “means” element is often the most challenging to prove. However, he also notes that there is a risk that without proof of “means” trafficking cases might be viewed as less serious crimes, resulting in lenient penalties. He recommends Bulgaria to conduct an analysis on whether its unique anti-trafficking provisions (which excludes proof of “means”) is being correctly applied in practice and is not redundant with other statutes.

Secondly, while the law provides for a range of exploitative purposes, trafficking for forced criminality is not among the forms of exploitation. In this regard, the Special Representative notes that a number of international reports indicate trafficking of Bulgarian citizens, particularly of Roma origin, for pickpocketing in Western Europe. Moreover, according to Global Organized Crime Index, Bulgaria is an important transit country for heroin with domestic networks involved primarily in logistics. It is noted that Bulgaria-based criminal networks are increasingly recruiting mules especially from the Roma community, who have allegedly been involved in the trafficking and distributing of drugs in Bulgaria. Bulgaria is mainly a transit country for the illegal cannabis market, which has grown massively since 2018.⁶ Given this increasing risk, an enhanced focus is necessary both from policy and practical point of view to prevent the emergence of this form of trafficking in the country. In this regard, inclusion of trafficking for forced criminal acts as one of the exploitative forms of trafficking under Article 159a could provide Bulgaria with better leverage to address a possible increase in this form of exploitation, including aid to identify and protect those who will fall prey to trafficking.

III. Policy and institutional framework

21. Bulgaria adopted its first National Strategy for Combating Trafficking in Human Beings in 2017 covering the period from 2017 to 2021. It is a key policy document that sets out the government’s anti-trafficking priorities and objectives. The Strategy is divided into short sections which describe leading challenges, sets key principles, national priorities and objectives and provides for the implementation and monitoring of its objectives. The Special Representative notes that work is underway in preparing and adopting the new Strategy, which will include an evaluation of the recently expired one. In his assessment of the implementation of the Strategy, he believes several areas should receive significantly improved attention: (1) to ensure better prevention of

⁶ Global Organized Crime Index – Bulgaria, available at < [Criminality in Bulgaria - The Organized Crime Index \(ocindex.net\)](https://www.ocindex.net)>

trafficking of vulnerable groups, the new Strategy should be aligned with the National Roma Integration Strategy, as individuals belonging to Roma community are the most vulnerable to trafficking in and outside of Bulgaria; (2) it is critical to urgently improve the criminal justice response to trafficking and address concerns about lack of understanding of trauma, victim perspectives, and the gravity of human trafficking offence, consistent and regular training of prosecutors and judges; 3) given the increase of technology-facilitated trafficking across the OSCE region, the Special Representative recommends the new Strategy includes specific actions to address the increasing prevalence of online exploitation of children and adults, including by establishing partnerships with private entities such as technology companies to develop specific tools and strategies; examine policy options to prevent and curb technology-facilitated trafficking; promote partnerships with financial intelligence, the financial services industry and financial regulators to identify proceeds from trafficking crimes; and establish regular joint trainings regular co-ordination meetings among various agencies, such as cybercrime, organized crime and trafficking criminal and social justice practitioners.

Moreover, while Bulgaria is primarily a country of origin for trafficking for various exploitative purposes, focusing on the demand for commercial sexual services and irregular labour in and outside the country should be mainstreamed in the new strategy both from preventative and punitive perspective. This also includes a closer look into the application of the criminal law provision pertaining to the purchase of sexual services from trafficking victims and developing exit strategies for persons in prostitution to reduce their vulnerability to trafficking.

The Special Representative wishes to inform about his Office's upcoming policy paper that will provide guidance on the effective structures and thematic priorities of NAPs which could provide additional guidance and support for the upcoming strategy. His Office also stands ready to provide assistance in development of the new NAP, as requested.

22. To implement the National Strategy, the Secretariat of the NCCTHB together with the Permanent Working Group (further discussed below) develops the annual National Anti-Trafficking and Protection Program (NAP) which is structured around seven sections that cover a broad range of measures. These measures focus on ensuring regular co-ordination between various agencies, monitoring the implementation of the National Strategy and reporting. It foresees robust prevention measures including organizing public campaigns targeting vulnerable communities, school children and the public at large. The NAP also envisages regular capacity building and training activities to advance the skills of anti-trafficking practitioners from service providers and criminal justice entities. The actions foreseen under the protection section of the NAP aim to improve the implementation of the National Mechanism for Guidance and Support of Victims of Trafficking in Human Beings (NRM), providing specialized support to victims and developing an action plan for enacting victim-centred approaches in criminal justice procedures. Through Section V, the NAP envisages the establishment of an integrated database for services provided to victims in shelters and temporary accommodation facilities and the creation of an electronic register of court decisions on trafficking cases. Finally, to implement the strategic goal of upgrading the legislative framework to better address human trafficking, the administration of the NCCTHB is tasked with co-ordination and ensuring the adoption of the changes to the

Anti-trafficking Law and to the Regulations on Shelters for Temporary Accommodation and Centres for Protection and Assistance to Victims of THB.

23. Pursuant to Article 4 of the Anti-Trafficking Law, the NCCTHB was established in 2004. It is subordinated to the Council of Ministers and chaired by Deputy Prime Ministers who rotate.⁷ The composition of the NCCTHB include the Deputy Ministers of Health, Interior Affairs, Foreign Affairs, Justice, Education and Science, Labour and Social Policy, Deputy Chief Prosecutor, Deputy Director of the National Investigation Service, Deputy Chair of the State Agency for Child Protection and Deputy Chairperson of the Supreme Court of Cassation. The task of the Commission is to set and administer the implementation of the national anti-trafficking policy. NGOs and international organizations have the possibility to observe the meeting of the NCCTHB. Currently, such an observer role is granted to Bulgarian Women's Fund. In 2007, a permanent working group (PWG) composed of some 36 experts from state agencies, international organisations and NGOs was set up under the NCCTHB for expert consultation. The structure of national coordination is well crafted, however, as with other areas in Bulgaria's anti-trafficking response, the well-conceived policy framework is often not implemented effectively in practice. For example, the NCCTHB would normally meet three to four times a year. However due to the frequent changes in government since mid-2020, there have been challenges in gathering all NCCTHB members. The group met only twice in 2020. The work of the PWG has been similarly affected and the group has rarely met in the last years. The Commission operates on the budget approved annually: the NCCTHB budget was BGN 393,600 in 2019, BGN 440,400 in 2020 and BGN 461,600 in 2021. There are also certain funds allocated and spent from the budgets of the separate institutions (members of the NCCTHB). According to the stakeholders met during the visit, this funding is insufficient to ensure implementation of the strategy which causes the anti-trafficking system to be dependent on external funding, negatively impacting the sustainability of measures and actions to prevent and combat human trafficking in the country.
24. The NCCTHB is assisted by the Permanent Secretariat and is headed by an Executive Secretary appointed by the Chairperson of the NCCTHB. The Secretariat acts as Bulgaria's National Co-ordinator and ensures co-ordination between government authorities, civil society and international organizations. The Secretariat is composed of 11 employees however as of July 2022 there were only 3 employees left in the Secretariat of which only two are anti-trafficking experts. In addition to its co-ordination function, NCCTHB Secretariat is also a co-ordinator of the National Referral Mechanism for Support of Trafficking Persons (NRM) (see paragraph 35) and is responsible for implementing the majority of actions foreseen in the Strategy and the NAP, such as prevention and protection related tasks. The NCCTHB Secretariat is professional and demonstrates a clear view and plan to prevent and combat human trafficking and protect victims. The team of the Secretariat have proven expertise on human trafficking with prior work experience from civil society and international organizations.

Since 2019, the position of the Executive Secretary has been vacant and performed by the acting Executive Secretary. However, in July 2021, the acting Executive Secretary resigned from her function due to the lack of consistent support of the government to

⁷ At the time of the visit, the NCCTHB was chaired by Deputy Prime Minister Boyko Rashkov

the work of the Secretariat. The resignation from this key post of the acting national co-ordinator is a significant step back in Bulgaria's efforts to prevent and combat human trafficking in the country. The Special Representative notes with concern that a lack of political support has been detrimental to country's anti-trafficking profile. The inconsistent political support has been largely due to the constantly changing composition of the government, which has resulted in less political attention and commitment to the work of the NCCTHB and its Secretariat. He calls on the Bulgarian authorities to urgently appoint a senior government official to the position of the Executive Secretary to the Secretariat and reinstate the work of the national co-ordinator.

25. Pursuant to the Anti-Trafficking Law, ten local commissions have been established (in Blagoevgrad, Burgas, Montana, Pazarzhik, Pleven, Plovdiv, Russe, Sliven, Varna and Veliko Tarnovo)⁸ for combating THB. These commissions are chaired by a deputy mayor and are composed of representatives of the municipal authorities in the areas of education, child protection, health, social policy, law-enforcement and NGOs. The local commissions are working under the methodological guidance of the Secretariat of the NCCTHB. The Special Representative positively notes the establishment of the local commissions which allows for an effective implementation of anti-trafficking actions on the ground across the country.
26. Bulgaria does not have an independent National Rapporteur on human trafficking. This role is assumed by the Secretariat of the NCCTHB. It monitors the trafficking situation in the country and issues an annual report on the implementation of the actions contained in the NAP. The report includes the trends observed on national and local levels, the work of the NCCTHB and local commissions, statistics of identified victims, data on investigations, prosecutions and adjudications and anti-trafficking activities of international and non-governmental organizations. The Special Representative positively assesses the reports published by the Secretariat of the NCCTHB which deliver baseline data to inform the anti-trafficking response. Nevertheless, ensuring a clear delineation of the roles and responsibilities of the National Rapporteur and National Anti-Trafficking Co-ordinator or equivalent mechanism through their respective mandates and tasking is key to national anti-trafficking efforts. Appointing a dedicated National Rapporteur is crucial not only for monitoring and evaluating policy and actions at all levels, but also for presenting independent opinions on challenging issues for consideration of both the legislative and executive branches. The independent nature of the role is central to the efficacy of the office.⁹
27. The Special Representative commends the dynamic role that anti-trafficking NGOs play in Bulgaria in conducting a range of critical activities, including policy work, reintegration and rehabilitation of trafficked persons and potential victims of trafficking, and prevention activities. NGOs also are close partners of the NCCTHB Secretariat, through which they co-fund services for victims and operate the anti-trafficking hotline. He commends the noticeable co-operation and trust between the Secretariat of the NCTTHB and civil society organizations and networks. While noting

⁸ [About us | National Commission for Combating Trafficking in Human Beings \(government.bg\)](#)

⁹ [Issue Brief - The role of independent National Rapporteurs or equivalent mechanisms in enhancing States' anti-trafficking responses | OSCE](#)

that such co-operation reflects well the recommendations set out in the OSCE report “the Critical Role of Civil Society in Combating Trafficking in Human Beings”¹⁰, he underscores the need for regular and sustained financial support to NGOs to advance the country’s victim outreach and support and allow for the sustainability and effectiveness of organizations’ operations.

IV. Human trafficking context in Bulgaria

28. Bulgaria is primarily a country of origin for trafficking for various exploitative purposes. While there is no consistent and unified data on identified victims of trafficking, information collected prior to, and during, the visit allude to the prevalence of trafficking for the purpose of sexual exploitation mainly affecting Bulgarian women and girls but also some men and boys in Western European countries, such as Austria, Belgium, France, Germany, the Netherlands and the United Kingdom.

Bulgarian men, women and children are also trafficked for the purpose of forced labour in seasonal work in agriculture, construction, the service sector and domestic work. A key push factor for this form of exploitation is poverty and economic desperation. According to the Anti-Poverty Network, the share of Bulgaria’s population at risk of poverty was the highest in EU with the value of 32.8 percent in 2018. The rate of the material and social deprivation is the second highest after Romania with the value of 33.6 percent in 2019. Thus, economic development can be a significant contributor to reducing the vulnerability of Bulgarians to exploitation.¹¹

29. Internal trafficking of both women and men has increased in the past years largely due to the travel restrictions imposed by the COVID-19 pandemic. Bulgarian citizens are trafficked within the country for the purpose of sexual exploitation primarily in street prostitution and often using deceptive job opportunities as dancers to lure potential victims. This type of trafficking is mainly concentrated in the capital, larger cities and resort towns on the Black Sea coast, where the crime is seasonal.¹² According to the stakeholders consulted during the visit, travel restrictions imposed by the pandemic led to the growth in technology-facilitated trafficking whereby information and communication technologies (ICT) were used to recruit, exploit and control trafficking victims.

30. Trafficking of pregnant women for the purpose of selling their new-born children in Greece and Cyprus is a persistent form of exploitation affecting Bulgarians. As described by law enforcement during the visit, an often-observed scenario is women from the Roma community, frequently suffering with drug addiction, are trafficked to Greece through the land border while accompanied by a member of a criminal group. Although in a few cases women agreed to participate in this offence voluntarily, in the vast majority of cases these women are forced to sell their babies through debt bondage or other forms of coercion. Upon arrival, the women are placed in an accommodation that has been arranged by the criminal group and are then taken to a maternity clinic

¹⁰ [The Critical Role of Civil Society in Combating Trafficking in Human Beings | OSCE](#)

¹¹ European Anti-Poverty Network, Bulgaria: Poverty Watch 2020, available at <[EAPN-EAPN-Bulgaria-Poverty-Watch-2020_ENG-4747.pdf](#)>

¹² Annual Report for 2020 on implementation of the National Program for Prevention and combating human trafficking and protection of victims, available at <[About us | National Commission for Combating Trafficking in Human Beings \(government.bg\)](#)> in Bulgarian language

for delivery. Upon the birth of the child, the new-born is registered with the biological mother while a Greek man recognizes the child as his own through an official notary. Subsequently, six months later, the mother renounces her rights as a parent and the wife of the Greek citizen who is the recognized father of the new-born, along with the father, become the official parents of the baby via formal adoption. Thus traffickers utilize legal adoption procedures to legitimize a criminal activity. According to the Office of the Prosecutor of Cassation, this form of exploitation is more frequent in the second largest city of Burgas, however there have been a reduction in the number of cases in past years likely due to the pandemic and the corresponding restrictions on travel. The number of pregnant women identified as victims of this form of exploitation was 50 in 2015, 80 in 2016, 97 in 2017, 64 in 2018 and 56 in 2019. No victim was identified in 2020.

31. Trafficking of women for sham marriages has also been identified in Bulgaria. This form of exploitation often targets women from poor areas who are tricked into sham marriages with third country nationals residing outside of Bulgaria. Cases of trafficking of Bulgarian women for sham marriages were identified in Ireland, Cyprus, the United Kingdom and other Western European countries.¹³
32. Trafficking for the purpose of organ removal is among the forms of exploitation identified by Bulgarian authorities. In 2021, Bulgarian law enforcement launched an investigation in relation to fourteen cases involving young persons from Moldova and Ukraine acting as organ donors for recipients from Israel, Germany and Jordan. Reportedly, at least some of the transplants carried between 2019 and April 2021 at a hospital in Sofia had recipients who used false identities and documents to prove their relation with the organ donor.¹⁴ There have also been reports of Bulgarian citizens trafficked for the purpose of organ removal by Bulgarian donors, whereby a hospital in Turkey was used for the transplant surgeries.¹⁵
33. To a lesser extent, Bulgaria is also a country of transit and destination for trafficking. Numerous practitioners and professionals interviewed during the visit mentioned the sexual and labour exploitation of foreigners in the country. The first foreign victim was detected in 2021 and concerned the case of labour exploitation of a Kyrgyz citizen. However due to the decision of the victim to leave the country, the investigation was terminated. The lack of identification of foreign victims indicates a need for a national study into the scale and scope of Bulgaria's profile as a country of destination.
34. Trafficking for the purpose of forced criminality mainly affects Bulgarian minors but also vulnerable adults of Roma ethnicity trafficked to Western European countries, where they are forced into pickpocketing and drug dealing. The Special Representative notes that trafficking of adults and children for forced criminality is widespread and a significant form of exploitation in Europe. The victims are often of Roma origin, and a high proportion are children.¹⁶ They often come to the attention of authorities primarily as offenders and they may not be easily recognized as victims of a serious

¹³ [AT 2016 Exploitative Sham Marriages Irish Report HESTIA.pdf \(immigrantcouncil.ie\)](#); [Cypriot 'Sham Marriages': EU Brides for Asian Grooms | Balkan Insight](#); [Bulgaria busts group that organised fake marriages for Indians and Pakistanis seeking EU residence | The Sofia Globe](#)

¹⁴ [Bulgarian organized-crime police probing 14 illegal kidney transplants | Reuters](#)

¹⁵ [Bulgarian, Turkish organ-smuggling ring busted | Daily Sabah](#)

¹⁶ [Trafficking into crime and begging - Anti-Slavery International \(antislavery.org\)](#)

crime. In this regard, as recommended in paragraph 20, including trafficking for forced criminality into the forms of trafficking purposes under Article 159a would enable better victim identification and effective investigation of the trafficking crime. It would also ensure the effective protection of victims' rights, including the non-punishment of victims for offences caused or directly linked to their trafficking situation.¹⁷

V. Identification, referral and assistance for victims of trafficking

35. Regarding the system for identification and assistance, Bulgarian authorities adopted a National Referral Mechanism (NRM) in 2010 and updated it in 2016, establishing mechanisms for identification and describing the roles of stakeholders in the process of identification, referral and assistance. The NRM provides guidelines for the implementation of the measures for the protection of victims which are stipulated in the Anti-Trafficking Law, including non-conditional support, special protection status for victims during trial and protection of victim data and confidentiality. The NRM stakeholders include a range of state agencies from the NCCTHB, ministries of interior, foreign affairs, labour and social policy, health, education, youth and science, agency for national security, for child protection, for refugees, the Supreme Prosecutor's Office, local commissions, NGOs and international organizations. The NRM envisages a two-level identification system – informal and formal identification. Informal identification is carried out by agencies and organizations coming into contact with the victims and gives them access to assistance and support measures contained in the NRM. The victim is then referred to the bodies conducting formal identification. Formal identification is in the remit of the bodies in charge of pre-trial proceedings and purports starting of the investigation. The NRM provides a list of indicators divided into two groups: criminal activities against the victim and the effect of trafficking on the behaviour and psychological condition of the victim. While NRM indicators are available and are used by stakeholders, some agencies - such as the Ministry of Interior's Directorate for Combating Organized Crime (CDCOC) - have developed their own standards for identification. An assessment of the implementation of the NRM was conducted by ICMPD and Animus Association in 2018 and found several areas for improvement. The recommendations included *inter alia* establishment of a centralised and unified database on human trafficking to be maintained by the NCCTHB (see para 36 for more on data); better alignment of indicators developed and used by various agencies in addition to the mandatory list provided under the NRM; development of specific services for identification and assistance to adult and child male victims of trafficking; mandatory training on THB for migration authorities including on the interviewing, risk-assessment and development and use of safety plans for trafficking victims.¹⁸

36. There is no unified data on the number of identified victims of trafficking in Bulgaria. The NCCTHB collects alerts about presumed victims of trafficking detected by NGOs, international organisations, citizens and other sources, disaggregated by gender, age, form of exploitation and type of trafficking. The number of alerts received by the NCCTHB was 200 in 2015, 136 in 2016, 142 in 2017, 155 in 2018, 94 in 2019, 53 in

¹⁷ [Policy and legislative recommendations towards the effective implementation of the non-punishment provision with regard to victims of trafficking | OSCE](#), p.9

¹⁸ ICMPD/Animus Association, Assessment of the Implementation of the National Mechanism for Referral and Support of Trafficked persons in Bulgaria, January 2018

2020 and 76 in 2021. These figures show a steady decline in the number of alerts received by NCCTHB the cause of which is not known, however the rate of Bulgarian victims exploited in Western Europe does not reflect a declining pattern of trafficking.

The data on formally identified victims is collected by the Supreme Cassation Prosecutor's Office. This data is cumulative, and includes data of the previous year while also overlapping with data collected by NCCTHB, making the exact annual figure of identified victims unknown. The Supreme Cassation Prosecutor's Office data provides the following statistics on number of victims formally identified including those in criminal proceedings: 495 in 2014, 409 in 2015, 447 in 2016, 508 in 2017, 443 in 2018 406 in 2019, 458 in 2020 and 132 in 2021. Of these numbers, women trafficked for the purpose of sexual exploitation comprise the vast majority of cases, followed by labour exploitation and trafficking of pregnant women for selling their new-born babies. The Special Representative recommends that Bulgarian authorities clarify and enhance their data collection processes, including by establishing a clear distinction between the formal and informal identification processes through creation of a centralized and unified data base for THB cases in Bulgaria to be collected and maintained by NCCTHB.

37. According to stakeholders met during the visit, the process of identification of child victims is rather clear. In instances when the victim is a child, "a signal" is sent to the State Agency for Child Protection (SACP), Police and the NCCTHB within 24 hours. The Coordination Mechanism for Referring and Support of Cases of Unaccompanied Children and Child Victims of Human Trafficking Returning from Abroad provides for a clear procedure that brings together respective local authorities and SACP to discuss and decide on the case. The SACP also collects information on the case, including from other agencies, ensuring better data collection on the number of children identified as victims by Bulgaria.
38. One of the key discussions during the visit included the identification of trafficked persons in the asylum procedure in Bulgaria. Bulgaria shares the EU's external border with Turkey, which is a major route for the flow of irregular migrants into the EU. The country has also faced scrutiny over allegations of pushing back migrants and for failing to provide legal channels for those who attempt to enter to lodge an application for international protection. While many migrants only use Bulgaria to transit to Western Europe, 2021 marked a significant increase in number of asylum seekers claiming protection in Bulgaria, with Afghanistan being the top nationality of applicants wishing to stay in Bulgaria. The State Agency for Refugees (SAR) has been implementing joint actions with the NCCTHB to identify trafficking victims among refugees and asylum seekers. However, there is no specialized tool developed or in use by the SAR – such as a screening questionnaire - to identify trafficking victims. To date no victim has been identified among refugees and asylum seekers, which is statistically unlikely. The Special Representative recommends that SAR increases its efforts to identify trafficking victims among persons seeking international protection through continuous training of its front line employees and development of specialized screening tools to support identification of trafficking indicators.
39. With regard to assistance to trafficking victims, the NCCTHB through its Secretariat is a co-ordinator of the NRM. As described in paragraph 35, the NRM provides for implementation of the measures for the protection of victims stipulated in the Anti-

Trafficking Law. The assistance services included therein range from crisis intervention, recovery and reflection period to social inclusion and safe return. Along with the insufficiency of financial means to support the NRM, the stakeholders consulted during the visit also highlighted a major gap in victims' access to health care. Reportedly, victims in Bulgaria who have lost health care status are not entitled to health care unless it is an urgent health situation. This is due to the fact that persons who do not contribute to social insurance for three months lose their status of health coverage. However, practically, this policy has become particularly problematic for trafficking victims as the vast majority of them are trafficked outside the country and lose the insurance. Trafficking victims also have specific health needs including physical and psychological (including drug addiction, infections, dental, and others) that make them particularly vulnerable and are often in need of medical care beyond merely "urgent" care. According to the Ombudsman, problems with accessing health care have been observed during their on-site checks which formed the basis for the drafting of recommendation to the Health Minister at the time of the visit. The Special Representative recommends that Bulgarian authorities take immediate actions to improve victims' access to health care including adjusting policies to ensure access and by training the medical personnel on trauma informed care and treatment tailored to the needs of the victim.

40. Regarding accommodation, as of April 2021 under the NCCTHB there are 7 services, specialized specifically for adult victims of trafficking (victims can be accommodated with their children), including 5 services financed by the delegated budget of the NCCTHB (2 Shelters for Temporary Accommodation, 1 Shelter for Subsequent Reintegration and 2 consultative services – Centers for Protection and Support in the regions of Varna and Burgas) and 2 services (Shelter for Temporary Accommodation and Center for Protection and Support) on the territory of Sofia city for which external funding is ensured within a project, implemented by the NCCTHB under the Internal Security Fund until November 2022. A number of internal documents provide guidance on the standards of the shelters, for shelters' records management, and minimum standards for personnel of the shelters and temporary accommodations that supplement the NRM.
41. With regard to accommodation of child victims of trafficking, the Social Services Act regulates residential care social services such as Crisis Centres. There are currently 19 crisis centres for children, with a capacity of 196 places, 21 centres for children working and living in the streets, 53 centres for social rehabilitation and integration for children, with a capacity of 1,827 places, one centre for social rehabilitation and integration for children and youths, with a capacity of 25 places and 143 community support centres, with a capacity of 5,815 places.
42. There were two safe zones for unaccompanied children in Bulgaria in 2019 and 2020, both managed by IOM and placed within Sofia's reception-and-registration centre (RRC), namely in the Voenna Rampa shelter accommodating primarily Afghan and Pakistani children, and in the Ovcha Kupel shelter for children speaking Arabic. According to the European Council on Refugees and Exiles, there was a significant increase of unaccompanied children from 799 in 2020 to 3,172 in 2022 which resulted in many of these children accommodated outside the safe-zone in mixed premises with

adults and without proper support and guaranteed personal safety.¹⁹ The Special Representative also notes that interlocutors reported some 80 percent of children in safety zones run away, the majority of which are minors from Afghanistan. To this end, and recalling the international standards established to provide guidance to the States to deal with unaccompanied minors²⁰, the Special Representative highlights the need to take particular account of the need to protect children from any risk of exploitation, and from a risk of them going missing during placement decisions. Placement of children with unrelated adults and in random accommodations can leave the unaccompanied child particularly vulnerable to trafficking and abuse and does not serve their protection or welfare needs.

43. Victims' access to justice and remedies empowers victims and deters future exploitation. Bulgarian laws and policies provide for access to legal assistance and free legal aid for trafficking victims.²¹ Victims can be offered free legal aid through regional counseling services and from the local bar association upon their placement in the shelter. However, to access free legal aid, victims must meet special criteria such as proving their lack of means/income and their family standing in order to access free legal aid. Another alternative avenue to access free legal aid for trafficking victims is to be party to a criminal proceeding where they can make a declaration that they wish to use their entitlement as a victim to request free legal aid. In such cases, an investigative body must check the criteria. In line with the individual's request, they work with the local bar association to find a lawyer to represent them. Yet, again, the data on the victim is collected ex officio to determine their eligibility. The Special Representative notes the discussions held with the National Bureau for Legal Aid on legal limitations for victims' access to free legal aid which is restricted to those who are placed in shelters. Often the victims of sexual exploitation leave shelters which result in losing the right to free legal aid. The Special Representative was not provided with information on the number victims which have benefitted from free legal aid. To this end, the Special Representative notes that traffickers operate with financial motive in mind and thrive on the earnings of victims leaving them with little or no financial means. It is therefore crucial that trafficking victims have access to unconditional assistance, including to free legal aid. In addition to international instruments, an Explanatory Memorandum refers to the ECHR, which held that in certain circumstances there is a right to free legal assistance under art. 6 (1) ECHR (*Airey v. Ireland*, 9 October 1979). Effective access to a court may necessitate free legal assistance if someone is not in a position to present her or his case properly and satisfactorily without the assistance of a lawyer (*Golder v. UK*, 21 February 1975).²² The Special Representative urges Bulgaria to improve a scheme of free legal aid to trafficked persons which shall not require the proof of lack of means and is not limited to their residence in the shelter only. This task should be included in the forthcoming new Strategy and NAP, including training of lawyers and legal representatives.

¹⁹ [Special reception needs of vulnerable groups - Asylum Information Database | European Council on Refugees and Exiles \(asylumineurope.org\)](#)

²⁰ [UNHCR - Guidelines on Policies and Procedures in Dealing with Unaccompanied Children Seeking Asylum; Child Trafficking and Child Protection: Ensuring that Child Protection Mechanisms Protect the Rights and Meet the Needs of Child Victims of Human Trafficking | OSCE](#), Chapter 4.

²¹ The NRM, the Law on the Assistance and Compensation of Crime Victims and the Law on Legal Aid

²² Marjan Wijers, Compensation of victims of trafficking under international and Dutch Law, April 2014, p.7

44. With regard to compensation for victims of trafficking, trafficking victims can claim compensation either as part of the criminal proceedings or through civil court. Reportedly there is existing case-law for granting compensation to trafficking victims for non-pecuniary (moral) damages. Nevertheless, it often occurs that the cases resolve by settlement (plea bargain) and that when the victim withdraws her/his participation in the criminal proceedings they lose the right to claim compensation as part of the criminal proceedings. Civil claims submitted through civil court are restricted to pecuniary (material) damages only. According to stakeholders met during the visit, obtaining compensation for pecuniary damages has been challenging and a case on this issue is pending at the European Court of Human Rights (ECHR). Only after not claiming compensation from either of these platforms, the Law on Support and Financial Compensation to Crime Victims (Article 3 (3)) can be applied. As per Article 12, one-time financial compensation (BGN 2,500 to 10,000) can be granted for material damages after a conviction has been granted, including in cases where the defendant was tried in absentia; or the prosecutor's or judicial act by virtue of which the penal proceedings have been terminated or suspended due to non-detection of the perpetrator of the crime. This is done upon the decision of the National Council for Assistance and Compensation to Victims of Crime. The application process requires the victim to submit the application in person to the National Council for Assistance and Compensation to Crime Victims or to the governor of the region where the victim's registered current address is located no later than two months after the verdict or the ruling enters into force. All documents proving material (pecuniary) damages and losses must be attached to the application form. However, the obvious challenge here is that victims of trafficking would typically not have or keep receipts and financial documents from the time of their exploitation so as to prove material damage.

If the perpetrator has no financial means, there is a legal order to help victims receive some compensation from the State. Enforcement of this order is done pursuant to the Law on Private Enforcement Agents. No data was provided with information on the number of compensations granted to trafficking victims through either of the means described above. To this end, the Special Representative concludes that while there are a number of avenues to claim compensation, the system is highly complex and convoluted which makes it extremely difficult for victims to navigate especially if there is no effective free legal aid to assist them. Moreover, the burdens placed on obtaining compensation render it virtually impossible for victims. To this end, he recommends that Bulgarian authorities urgently develop simple procedures for victims of trafficking to access financial compensation including by removing the requirements of proof on the part of the victim. For example, to aid the situation some countries have introduced an estimate of average illegally obtained benefits per trafficking suspect or used victims of other serious crimes as a proxy to measure the damages caused to a victim.²³ Moreover, he recommends that regardless of the result of the adjudication, every settlement reached should include a mandatory provision for victim compensation.

²³ Jeltsje Cusveller and Edward Kleemans, International Review of Victimology, Fair compensation for victims of human trafficking, A case study of the Dutch injured party claim, 2018; [3226-Compensation for victims of human trafficking - Cusveller.pdf \(lastradainternational.org\)](#)

VI. Investigation and prosecution of human trafficking

45. Bulgaria's criminal justice response to human trafficking is characterised by a combination of good practices and some serious concerns. The Special Representative acknowledges the work of law-enforcement specialized in investigating all forms of human trafficking, the active participation of Bulgarian investigators in joint investigations with other European counterparts and the good practice of identifying and seizing traffickers' assets. However, he remains seriously concerned on the lack of efforts to bring traffickers to justice through penalties that reflect the seriousness of the crime. The high rate of suspended sentences and wide use of plea bargains with traffickers are significant drawbacks in the State's anti-trafficking response and do not foster an environment of risk and deterrence for perpetrators.
46. Criminal investigations into human trafficking are conducted by various law-enforcement agencies, the co-operation among which is regulated under the NRM. The specialized police units of Directorate General for Combating Organized Crime under the Ministry of Interior investigates human trafficking cases with organized criminal elements and those involving border crossing.²⁴ Composed of 15 officers, the unit has at least one investigator in each of the centres responsible for THB at the local level in addition to a presence in each territorial units. National police handle cases that do not involve organized criminal groups, but rather one or more individuals (i.e. pimps).
47. The National Investigation Service (NIS) investigates factually and legally complicated cases and offences committed abroad. The NIS is headed by the Prosecutor-General, either directly or through the Service's Director, who deputizes for the Prosecutor-General for the purpose of investigations. Distribution of the cases in the pre-trial procedure among investigative bodies is regulated pursuant to Articles 194-195 of the Criminal Procedure Code (CCP). Pursuant to the CCP, the Prosecutor-General can assign or transfer cases to the NIS, where the Prosecutor-General finds that investigations contain factual or legal issues to a degree that require more experienced investigators. The purpose of having investigators alongside the investigative police is to be able to have investigations carried out by members of the judiciary (magistrates)²⁵ so as to safeguard independence in high profile cases.
48. As mentioned in earlier paragraphs, the Internet is increasingly used by traffickers to recruit, exploit and control victims for various purposes. This challenge was referenced by various interlocutors in regard to the rapidly increasing pattern of online recruitment and exploitation for sexual exploitation. Social networks such as WhatsApp, Instagram, and Facebook are used for recruitment, advertising and exploitation of Bulgarian citizens within and outside of the country. Nevertheless, the anti-trafficking police are not specialized in this area and do not have the capacity to deal with human trafficking cases facilitated by technology; instead they rely on the assistance and expertise of the cyber-crime police to investigate those cases. However, as is common in many countries, cyber police are typically more focused on online child exploitation rather than technology-facilitated trafficking. To keep pace with the misuse of technology by traffickers and also with the opportunities that new technologies present for combating THB, the Special Representative recommends that law enforcement and

²⁴ Art 39 of the Ministry of Interior Act stipulates

²⁵ Under the Judiciary Act, investigators in the Republic of Bulgaria have the status of magistrates (judges and prosecutors).

prosecutors are supported with more human and financial resources to make use of online investigations and specialized technology tools which could scale up the fight against human trafficking.²⁶

49. As mentioned in paragraph 15, Article 159c of the CC criminalizes the use of the services from trafficked persons “for lechery practices, for forced labour or begging, for removal of organs, tissue, cell or body fluids or for keeping her/him in servitude regardless of her/his consent”. While users of sexual services can theoretically be prosecuted under Article 159c, the current statutory interpretation differs significantly from what is prescribed in the article. According to the remarks of a judge of the Supreme Court of Cassation²⁷, the use of victims for lewd acts means their provision for sex services, i.e. others to take advantage of them for lewd acts. The term "use" for lewd acts is understood to mean making a profit from lewd acts provided by victims of trafficking, rather than exploiting them sexually.²⁸In practice, this means that Art. 159c of the CC is applied only to persons who use a victim of trafficking in human beings as a source of income or other tangible or intangible benefits, i.e. pimps. Leaving the intended targets of the statute, sex buyers, unaffected.

The Special Representative notes that by requiring States to consider including a specific provision to criminalize the use of services which are the object of exploitation, the international legal framework²⁹ seeks not only to criminalize every actor within the trafficking chain but also oblige the states to take measures to reduce the demand that fosters all forms of trafficking. The Special Representative recommends that Bulgarian authorities take steps to ensure that the law is properly targeted toward the demand side and those persons who use the services of trafficking victims instead of pimps who benefit from trafficking victims. .

50. Bulgaria is one of the most active EU countries in using Joint Investigative Teams (JITs) with other countries to investigate and prosecute cases. According to Eurojust³⁰, between 1 January 2017 and 30 June 2019, Bulgaria made 32 requests for assistance and was involved in setting up nine JITs in THB cases. The purpose and the key focus of the JITs were diverse. In 2019 JITs between Bulgaria and French authorities put a major focus on identifying, tracing, freezing and confiscating assets relating to 200 Bulgarian victims of Roma origin who were exploited in French vineyards through fake offers of legitimate work. The JIT parties discussed jurisdictional issues with support from Eurojust, including the possibility of one country prosecuting the organized criminal group for THB crimes and the other country prosecuting it for money laundering, to prevent a conflict of jurisdiction. In September 2019, Eurojust co-ordinated several joint action days in Bulgaria and France, resulting in arrests and seizures in both countries.³¹ In another case, Bulgaria was party to a JIT with Swedish authorities in investigating an organized criminal group for aggravated THB of

²⁶ [Leveraging innovation to fight trafficking in human beings: a comprehensive analysis of technology tools | OSCE](#), 2020

²⁷ Imova V. The crime of "trafficking in human beings" in the practice of the Supreme Court of Cassation, available in electronic form in the information system APIS.

²⁸ Explanatory note provided by the Supreme Cassation Prosecutor's Office on 5 July 2021

²⁹ Article 9(5) of the Palermo Protocol, Article 19 of the CoE Convention on Action against human trafficking, Art 20 of the EU Anti-Trafficking Directive

³⁰ Eurojust Report on Trafficking in Human Beings, Best practice and issues in judicial cooperation, February 2021

³¹ [Human traffickers' ring busted in France and Bulgaria | Eurojust | European Union Agency for Criminal Justice Cooperation \(europa.eu\)](#)

Bulgarian victims for forced begging and money laundering involving millions of Swedish kronor. The JIT parties exchanged information and made decisions on the best place to prosecute and the measures needed to ensure the victims' safety during any criminal proceedings as the Bulgarian victims feared to testify in court in the presence of the suspects. Lastly, a particularly successful example of a JIT agreement is that signed between Bulgarian and Norwegian authorities on a case involving the passing of electronic materials showing the sexual abuse of children, which proved useful for ensuring the admissibility of evidence from victims. The case involved young boys from an orphanage in Bulgaria who became victims of Norwegian suspects running the orphanage. The parties discussed in detail the admissibility of evidence in Norway with regard to the children's statements. In an annex to the JIT agreement, the parties included information and legal provisions about the interviewing of children as victims or witnesses in Norway. According to the Norwegian Criminal Procedure Act, prosecutor-led police interviews of children under the age of 16 years must be conducted under specific criteria in cases regarding sexual offences and domestic violence. The Norwegian members of the JIT, entrusted by the leader of the team, asked the competent authorities of Bulgaria to allow designated Norwegian investigators specialised in interviewing children to conduct the interviews in Bulgaria in accordance with the Norwegian legislation.³² The Special Representative commends Bulgaria for its active use of the JITs in THB cases which is key as a country of origin for various forms of trafficking.

51. Article 2 of the Special Intelligence Means Act, provides for "technical means" and "operative methods", which allows the use of electronic means, mechanical devices and substances, observation, tapping, surveillance, penetration, marking, and interception of mail and computerised information, controlled delivery, trusted transaction and investigation through an undercover officer. Pursuant to Article 13, the supervising prosecutor shall submit to the court a substantiated written request for use of special intelligence means for pre-trial proceedings. The Special Representative notes the value of special investigative techniques which can reveal the chain of perpetrators, uncover substantial evidence to add to the mosaic of evidence, support victim testimony or even make it unnecessary, and help to prove criminal intent.³³ Given the rise of technology-facilitated trafficking, the use of special investigative techniques is particularly important in uncovering all aspects of the crime.
52. To interview child victims of violence, Bulgarian authorities established "Blue Rooms" across the country. These rooms are child friendly spaces specially equipped with video and sound recording systems for evidential video interviewing of child victims and witnesses, and for their use in legal proceedings. In 2020, there were 25 Blue Rooms in Bulgaria and most were on social services premises. The prosecutors referred to the increasing use of these rooms and their positive impact on the work of the criminal proceedings. The rooms are reportedly also being used for adults, particularly victims with physical and mental disabilities. However, according to UNICEF, the Blue Rooms are not being fully utilized, as it is not mandatory to use these rooms to conduct interviews with child victims and witnesses in the pre-trial phase or during hearings in the trial phase of criminal proceedings; their use is at the discretion of police investigators, prosecutors and judges. The report further notes that

³² Eurojust Report on Trafficking in Human Beings, Best practice and issues in judicial cooperation, February 2021, p. 28 and 30

³³ UNODC, Evidential Issues in Trafficking in Persons Cases, 2017

there is also a lack of common standards and approaches as to how and by whom the blue rooms are to be used.³⁴ The Special Representative positively notes the establishment of the Blue Rooms, however, encourages the authorities to make more efficient use of the rooms including for particularly vulnerable adult victims of trafficking.

53. The adjudication of trafficking cases is one of the key areas of concern in Bulgaria. In Bulgaria, most THB related cases are judged in the first instance, i.e. in regional courts, followed by the court of second instance at district level and finally the Supreme Court of Cassation, the judges of which the Special Representative consulted during the visit. The Supreme Court of Cassation is the highest judicial authority for criminal and civil proceedings in Bulgaria. Because it is the last instance court, only a small number of THB cases actually reach the Supreme Court of Cassation. Over the past five years, the court only judged 16 cases pertaining to THB, with the majority being trafficking for the purposes of sexual exploitation and only a few pertaining to the trafficking of pregnant women for the purpose of selling their new-born babies.
54. According to data provided by the Supreme Cassation Prosecutor's Office, the number of newly instituted pre-trial proceedings in THB cases was 86 in 2017, 60 in 2018, and 87 in 2019, 79 in 2020, and 56 in 2021. Prosecutors filed charges in 65 cases in 2017 (involving 88 defendants), 53 cases in 2018 (involving 68 defendants), 41 cases in 2019 (involving 73 defendants), 36 cases in 2020 (involving 69 defendants) and 26 in 2021 (involving 77 defendants). The number of persons convicted with effective sentences was 62 in 2017, 58 in 2018, 61 in 2019, 46 in 2020 and 27 in 2021;

Pursuant to Article 66 of the CC, where the court imposes punishment by imprisonment for up to three years, it may suspend the serving of the imposed punishment for a period of three to five years, provided the person has not been sentenced to imprisonment for a crime of general nature and if the court finds that for the purpose of achievement of the objectives of the punishment, and above all for correction of the convict it is not imperative for him to serve the punishment. According to the prosecutors met during the visit, when an investigation goes on beyond a "reasonable time" the sanction given needs to be either suspended or be lower than the minimum threshold provided for in law. As the vast majority of cases are committed abroad, they require the use of different tools for international legal co-operation including to locate and identify victims and witnesses. Therefore, in the vast majority of cases, the length of the criminal proceedings of case goes beyond the reasonable time.

The data provided indicate that almost 80 percent of cases end up with a suspended sentence and relatively smaller numbers in acquittals: in 2017, 41 defendants received suspended sentences and no acquittals; in 2018 2 persons were acquitted and 43 received suspended sentences; in 2019, 9 defendant acquitted and 33 received suspended sentences; in 2020, no acquittals but 31 suspended sentences and in 2021, 18 defendants received suspended sentences and 12 fined.

55. Article 381 (1) of the CCP provides that after the finalization of the investigation, upon a proposal of the prosecutor or of the defender, a plea agreement may be drafted

³⁴ UNICEF, Evaluation of Child Advocacy Centres supported by UNICEF Bulgaria, Final Report, July 2020

between them on the settlement of the case. If the defendant has not employed a defence attorney, upon a request of the prosecutor a judge of the respective first-instance Court shall appoint to him/her a defender with whom the prosecutor shall discuss the agreement. Where material damages have been caused as a result of the crime, the agreement shall be admitted after their restitution or securing. (Article 381 (3)) The Special Representative notes the number of settlements as provided by the Supreme Cassation Prosecutor's Office as follows: in 2017, 38 cases (39 defendants); in 2018, 29 cases (30 defendants); in 2019, 21 cases (34 defendants), in 2020, 19 cases (27 defendants) and in 2021, 12 cases (23 defendants).

56. In his assessment of the data vis-a-vis the discussions during the visit, the Special Representative notes several areas that require the urgent attention of the Bulgarian judiciary: (1) the practice of serving suspended sentences to traffickers (Suspended sentences are rarely, if ever, appropriate in cases involving trafficking in human beings, one of the most serious crimes at the international level and a grave violation of human rights. Suspended sentences convey precisely the wrong message to perpetrators – that commission of the crime will not carry serious consequences and thus is a low risk-high reward offense. Likewise, suspended sentences on such serious offenses deny victims of grievous harm the justice that they deserve, put their safety at risk because the perpetrator is not confined and undermine faith in the criminal justice system for all other victims and the citizenry at large); and (2) the lack of understanding that the human trafficking offence is grave violation of the rights of trafficked persons.

Information collected during the visit, including during the interviews, indicates that practitioners in the criminal justice system, particularly within the judiciary and prosecution service, do not recognize the seriousness of human trafficking as a heinous violation of human rights. For example, one member of the judiciary commented to the Special Representative that the persons accused of trafficking women for the purpose of selling babies for adoption were demonstrating “good will to help families” and that convicted traffickers had families themselves and thus should not be imprisoned. Such statements indicate a fundamental misunderstanding of the crime of human trafficking, as well as the international legal framework for countering it, and a grievous abdication of justice for victims. The Special Representative also takes notes of the findings of the 2021 Rule of Law Report of the European Commission, the level of perceived judicial independence in Bulgaria remains low among the general public and average among companies, and has decreased slightly compared to 2020.³⁵ To this end, the Special Representative notes with serious concern several factors that relate both to legal provision and to the approach demonstrated by members of the judiciary and prosecution services during the visit. Firstly, while the fundamental principle of sentencing is ensuring the rights of parties are respected before the law, its objective is deterrence, reparation of the harm done to victims and promotion of a sense of responsibility in offenders. Victims are entitled to justice and can rightfully expect legal actions to be taken against their offenders. Allowing perpetrators to evade punishment perpetuates a culture of impunity and is a violation of the country's international obligations to combat human trafficking.

³⁵ European Commission, 2021 Rule of Law Report, Country Chapter on the rule of law situation in Bulgaria, 2021

To this end, the Special Representative recommends that Bulgarian authorities amend CC Article 66 by removing the offences listed under Art 159a-159d from the scope of the provision.

57. With regard to financial intelligence and investigations into the proceeds generated by human trafficking, the Financial Intelligence Directorate is an administrative structure under the State Agency for National Security (SANS) which collects, stores, investigates, analyses and discloses financial intelligence. It serves as Bulgaria's financial intelligence unit (FIU). On 9 January 2020, the SANS issued the National Risk Assessment (NRA) of Money Laundering and Terrorist Financing which analysed the internal and external risks of money laundering and related predicate offences in the country. While there are no specific indicators on THB that the financial intelligence analysts could use to detect trafficking related financial activity, the NRA identified human trafficking as a high risk event (RE) primarily linked to organized crime through the exploitation of the formal financial system and extensive use of cash.³⁶ Because human trafficking is a financially motivated crime, financial investigations conducted in parallel to criminal investigations are an increasingly important tool in disrupting the business model of traffickers and in enhancing the use of corroborating evidence in prosecutions. Financial investigations can be used both as a punitive measure against traffickers, as well as a protective measure for victims, helping to deliver reparations and compensation for trafficked persons.³⁷ FIUs play a crucial role in analysing and exchanging information concerning unusual and suspicious transactions that may include finances deriving from trafficking in human beings, thus serve as intermediaries between the private sector and law enforcement authorities including to facilitate exchange of strategic and tactical data. To this end, the Special Representative recommends that the NCCTHB include the Bulgarian FIU within the anti-trafficking agenda and increase co-operation between anti-money laundering practitioners and anti-trafficking stakeholders. This will allow for better information exchange and dialogue. He offers the support of his office to Bulgarian authorities in establishing an enhanced financial investigations framework based on public-private partnerships with financial services and other payment services.
58. The Commission for Anti-Corruption and Illegal Assets Forfeiture was created in 2018 pursuant to the Counter-Corruption and unlawfully Acquired Assets Forfeiture Act. Chapter 10 of the Act stipulates that the Commission shall institute a forfeiture of unlawfully acquired assets where a reasonable assumption warranted by the establishment, after an examination, of a significant lack of correspondence in the assets of the person under examination.³⁸ The case is opened following the notification sent by the prosecution service of a criminal offence listed within Article 108 which specifically references Article 159 (THB). From 2015 to 2020, the Commission recovered BGN 4.250,000 from individuals convicted under Article 159, of which the largest amount of 2.816,000 was recovered in 2017.³⁹ According to the Commission, 30 percent of the recovered assets/funds is used for social purposes which is decided

³⁶ [Financial Supervision Commission - National AML/CFT Risk Assessment 2019 \(fsc.bg\)](#); Risk events for Money laundering and terrorism financing, available at <[Microsoft Word - Risk Events \(dans.bg\)](#)>

³⁷ [Joint Statement on the Critical Role of the Financial Sector in Combating Trafficking in Human Beings and Modern-day Slavery | OSCE](#)

³⁸ Chapter 10, Art 107 of the Counter- Corruption and unlawfully Acquired Assets Forfeiture Act

³⁹ The breakdown of the amount of forfeiture is as follows: 600,000 (2015); 560,000 (2016); 2.816,000 (2017); 206,000 (2018/2019); 68,000 (2020).

upon the proposal of the inter-agency board on assets management. The board can propose various actions, including to assign the money to different bodies or authorities or to sell the assets. Since the establishment of the board in 2012, 25 such decisions were made which transferred forfeited assets to public bodies. One of the key purposes of the Act and thus the Commission is to fight corruption in the higher echelons of power. The Special Representative notes that the Anti-Corruption Strategy 2015-2020⁴⁰ does not include any measure related to THB but rather provides for a wide range of actions in general and aims to enhance co-operation at the national and international level. To this end, the Special Representative positively notes the work of the Commission in identifying and seizing the assets of traffickers. He recommends, however, that Bulgaria use the confiscated assets to fund victim support and reparations, including compensation which was not evident from information provided during the visit.

59. The non-punishment principle in regard to trafficking victims is enshrined in Article 16a of the CC, stipulating that: “An act shall not be considered culpably committed if performed by a person who is a victim of human trafficking and who was forced to perform the act in direct relation to being such a victim”. A key point in the application of this provision is that it only applies when the offence was committed under the menace of force, threat or intimidation. However, these elements do not remove the liability of victims for other criminal offences. As such, pursuant to Article 329 of the CC, the persons are liable for making money from “immoral doings”, such as persons in prostitution and begging can be penalized. Reportedly, a new criminal code has been pending since 2013 that would repeal Article 329 and expand the scope of the non-punishment principle by including “abuse of position of vulnerability” in addition to the force element. In this regard, the Special Representative highlights that trafficking for the purpose of exploitation in prostitution is the prevailing form of trafficking identified in Bulgaria and across the OSCE region. Similarly, trafficking of vulnerable adults and children for forced begging and for the purpose of forced criminality is a wide-spread form of exploitation in Europe that affects primarily Bulgarian and Romanian citizens. Therefore, identification of these individuals as victims is crucial. He notes that by prosecuting trafficking victims, States fail to fulfil their international obligations, namely to identify, protect and assist victims of trafficking, and also to investigate a trafficking situation with to the aim of identifying the trafficker and seeking to bring the true perpetrator to justice. To this end, he recommends that Bulgarian authorities accelerate the adoption of the new criminal code including the provision that exonerates trafficking victims from punishment for administrative and criminal offences committed as a result or in the process of trafficking, without limiting it to specific means. Additional efforts should be made to provide guidance to all front-line members of law enforcement on the application of this principle and included training on the application of the principle in training curricular and materials pertinent to human trafficking and related crimes.

VII. Prevention of human trafficking

60. The Special Representative positively notes a variety of preventive measures implemented by Bulgaria. Prevention is one of priority areas of the current NAP, which

⁴⁰ The National Strategy for Prevention of Corruption in the Republic of Bulgaria 2015-2020 available at <[National Anti-corruption Strategy - Bulgaria](#)>

foresees a range of measures, including prevention campaigns to prevent various forms of trafficking, such as labour, sex trafficking, trafficking of pregnant women for selling new-born babies, conducting national campaigns targeting EU anti-trafficking day and a range of activities targeting minors and at risk populations. The national campaign for prevention of labour trafficking conducted in April-May 2021 targeted Bulgarians seeking jobs abroad as well as foreign migrant workers involved in seasonal and temporary employment in Bulgaria. The Special Representative commends the NCCTHB for initiating and joining expert meetings to exchange good practices, experiences and for developing joint measures for implementation of labour laws in Bulgaria, but also developing targeted activities with France, Germany and Austria. These measures provide for effective prevention of various forms and types of trafficking affecting Bulgaria.

61. Nevertheless, these efforts need further attention to align with the evolving nature of the crime. While the pandemic has subsided, there remain outstanding consequences of restricted movement and the increasing use of the Internet to recruit, exploit and control vulnerable adults and children. As discussed in previous paragraphs, the Internet has been increasingly used to facilitate the trafficking of adults and children particularly for sexual exploitation across the entire OSCE region. One area of prevention of this phenomenon has been establishing state-led regulatory frameworks that would oblige companies to adopt and implement prevention measures on platforms with high risks of exploitation. To this end, the Special Representative recommends several actions for Bulgarian authorities. 1) Conduct a large-scale mapping of online platforms that promote the sale of sexual services, escort services and pornography to detect and stop online recruitment and sexual exploitation of adults and children. This also includes through partnerships with the private sector and civil society. 2) Develop national guidelines on monitoring and coordinated data gathering related to high risk platforms, as well as sharing between various agencies and organizations. And 3) establish a state-led regulatory framework which includes robust mandatory obligations for technology companies to adopt prevention measures, including age-verification for visitors, for those uploading content, and for those depicted in the content.⁴¹

62. Bulgaria's Roma community are among the country's most excluded population and at significant risk of trafficking. It is estimated that Roma people make up around 10.3 per cent, or 750,000 members of the Bulgarian population. Official figures are lower due to people migrating and moving within the country, often not being officially registered. Unemployment among the Roma people is estimated to be up to 70 – 90 per cent, compared to the national average of 8 – 10 per cent.⁴² Reportedly, 22 per cent of Roma people in Bulgaria are illiterate and 91 per cent have not received a secondary education.⁴³ In 2021, Bulgaria adopted its National Strategy for Roma Equality, Inclusion and Participation (2021-2030). It is a framework document that sets out guidelines for the implementation of policies for socio-economic inclusion and participation of Roma. The strategy takes into account the lessons learned and builds on what has been achieved during the implementation of the National Strategy of the

41 OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, Policy Responses to Technology-Facilitated Trafficking in Human Beings: Analysis of Current Approaches and Considerations for Moving Forward (Vienna, March 2022)

42 La Strada International, Trafficking labour exploitation in Poland, Bulgaria and Romania, March 2019

43 [Romani People in Bulgaria - The Borgen Project](#)

Republic of Bulgaria for Roma Integration (2012-2020). The Special Representative positively notes the inclusion one of the objectives of the Strategy which provides for “prevention of specific forms of trafficking in human beings in areas with a concentration of poverty and providing additional measures to protect victims of trafficking in human beings belonging to ethnic minorities in order to reduce the number of cases of trafficking in human beings and increase the detection and prosecution of traffickers and development and implementation of services for integration of children – victims of THB.”

In May 2022, Bulgaria adopted the National Action Plan (NAP) for the period 2022-2023 for implementation of the above mentioned National Strategy. The NAP foresees series of activities focusing on several priority areas of education, health, housing, culture and rule of law and non-discrimination. The Special Representative positively notes the inclusion of several action points on combating human trafficking of vulnerable groups including among Roma community. These actions include implementation of the Co-ordination mechanism for Referring and Caring for Cases of Unaccompanied Children and Child victims of THB returning from abroad; conducting additional training at the Academy of the Ministry of Interior and in schools where children of Roma background study. Nevertheless, he recommends the NCCTHB co-operates with the agency(ies) responsible for the implementation of the afore-mentioned Strategy and the NAP including for development of the new NAP to implemented for the period of 2023-2024 with the primary focus on prevention of trafficking and exploitation of Roma population. This should include, but not be limited to ensuring access to employment and prevention of discrimination to reduce vulnerability, identifying, training and empowering persons from Roma community to act as “Roma-led integration and empowerment” to engage in prevention campaigns in the educational facilities and in local communities.

63. Numerous legally and politically binding commitments at the international level direct States to take action to address the demand that fosters all forms of trafficking including both Article 9 of the Palermo Protocol and Article 6 of the Council of Europe Convention, which require State Parties to adopt legislative or other measures including educational, social and cultural measures to discourage the demand that fosters all forms of exploitation which lead to trafficking; Article 18 of the EU Directive 2011/36/EU which tasks Member States to discourage and reduce the demand; and the OSCE Action Plan for Combating Trafficking in Human Beings which urges countries of destination to take measures to effectively address demand as a key element in their strategies. While acknowledging Bulgaria’s profile primarily as a country of origin for trafficking, the Special Representative observes a lack of attention from policy makers and practitioners on reducing demand particularly in coastal areas of Bulgaria where reportedly trafficking of Bulgarian and foreign women for prostitution is on the rise. Highlighting the recommendation in paragraph 21, the Special Representatives recommends that NCCTHB includes demand reduction as one of the key objectives and goals of the forthcoming Strategy followed with tangible and actionable tasks in the next NAP.
64. With regard to the prevention of labour exploitation, there is no standalone criminal offence for forced labour or labour exploitation except for the trafficking offence provided under Article 159a. The Bulgaria’s Labour Code regulates employment relationship in the country and is applicable to all contracts concluded in Bulgaria. As

noted in research published by La Strada, the weak economy has pushed many Bulgarians to seek employment outside the country. This pattern not only created risks for abusive and exploitative employment for Bulgarians seeking better pay, but also left the country with a shortage of workers in several labour sectors and created potential demand for cheap and exploitative foreign labour, particularly among those that are undocumented. The sectors that are at particular risk of labour exploitation in Bulgaria are agriculture, construction, textiles and hospitality.

65. The Executive Agency Chief Labour Inspectorate is a competent body to ensure implementation of the labour law which covers labour relations, unpaid wages, health and safety and operation of the temporary and employment agencies. The agency is also specialized in implementation of Labour Migration and Labour Mobility Acts. There are 400 inspectors across the country with the mandate to inspect over 200,000 businesses. The inspections are conducted according to a schedule but also upon the receipt of a complaint. In case of detection of a third-country migrant worker at workplace, the police and migration officials are informed. The Inspectorate is part of the NRM and has established good relations with NCCTHB and anti-trafficking police and co-operated on numerous capacity building activities for inspectors on issues related to THB. During the visit the Special Representative was informed about a recent inspection carried out in bazars where a large numbers of migrant workers from China were detected. No data on THB cases detected and referred to law enforcement was provided.
66. Of primary concern is the operation of the temporary employment agencies and employment intermediaries. The Employment Agency is the competent agency to issue licences to these agencies and issue work permits for employment in Bulgaria. The list of registered employment intermediaries is available on the website of the Employment Agency which should allow persons seeking employment abroad to verify if a potential employer is registered. However, there are also unlicensed/informal employment intermediaries operating in the country that are detected from time to time. According to the Employment Agency this type of activity has gained momentum as the employers of these agencies are not employers under the law compared to temporary work agencies. The Employment Agency described a few cases of when temporary employment agencies have re-registered as employment intermediaries to conceal their operations. Such a case was detected in 2020 when an employment intermediary was involved in the recruitment of 80 individuals to work in France. The Special Representative positively notes the co-operation of the Employment Agency with the counterparts in France to check, particularly in the agriculture sector, for unregistered employment and individuals exploited in seasonal work, however recommends enhanced monitoring and control of the operations of temporary employment agencies and employment intermediaries.
67. In conclusion, while positively noting the commitment and numerous steps taken in the prevention and countering of trafficking in human beings by the Government of Bulgaria, particularly through strong policy adoption, the Special Representative encourages the authorities to continue their efforts and invites them to consider the following recommendations to enhance their implementation of OSCE anti-trafficking commitments, in particular the OSCE Action Plan to Combat Trafficking

in Human Beings and its Addenda⁴⁴. The Special Representative and his Office stand ready to provide support and technical assistance, if requested by national and local authorities, as well as civil society, and welcomes further dialogue and co-operation to promote appropriate follow-up to these recommendations.

VIII. Recommendations

1. Enhance legal framework by:

- Ratifying ILO Convention 189 concerning Decent Work for Domestic Workers.
- Ratifying the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families of 2003.
- Ratifying the Protocol of 2014 to the ILO Convention on Forced Labour No. 29.
- Amending Article 159a of the Criminal Code to add trafficking in human beings for the purpose of forced criminality to the list of exploitative purposes in the definition of human trafficking.

2. Improve policy and institutional framework by:

- Finalizing and adopting without a delay a new Strategy for Combating Trafficking in Human Beings and its supplementary annual NAP. The new Strategy should: ensure better prevention of trafficking of vulnerable groups, including by aligning with the National Roma Integration Strategy as individuals belonging to Roma community are the most vulnerable to trafficking in and outside of Bulgaria; include sizable actions to urgently improve the criminal justice response to trafficking, including a strong focus on consistent and regular training of prosecutors and judges; contain specific actions to address the increasing prevalence of online exploitation of children and adults, including by establishing partnerships with private entities such as technology companies to develop specific tools and strategies; promote partnerships with financial intelligence, the financial services industry and financial regulators to identify and confiscate proceeds from trafficking crimes; and establish regular joint trainings and regular co-ordination meetings among various agencies, such as cybercrime, organized crime and trafficking criminal and social justice practitioners.

- Urgently appointing a senior government official to the position of the Executive Secretary to the NCCTHB Permanent Secretariat who shall act as the country's National Anti-Trafficking Co-ordinator and providing adequate human and financial resources to the Secretariat to fulfil its broad and crucial mandate.

⁴⁴ OSCE Permanent Council, Decision No. 557/Rev.1 *OSCE Action Plan to Combat Trafficking in Human Beings* (Vienna, 7 July 2005); OSCE Permanent Council, Decision No. 1107 *Addendum to the OSCE Action Plan to Combat Trafficking in Human Beings: One Decade Later* (Vienna, 6 December 2013).

- Ensuring clear delineation and complementarity of the roles of the National Rapporteur and the National Anti-Trafficking Co-ordinator by designating an independent National Rapporteur to monitor and evaluate anti-trafficking policy and actions in the country.

- Improving consistency and harmonization of data by establishing a centralised and unified database on human trafficking to be maintained by the NCCTHB Secretariat. This database should include data on the number of identified and assisted victims segregated to gender, age, types and forms of exploitation, data on provided assistance including shelter, reflection period and residency permits; the number of compensation claimed and granted; the number of investigations, prosecutions and adjudication and finally, on confiscations and recovered assets of traffickers.

2. Enhance victim identification, assistance and protection by:

- Maintain efforts to identify female victims trafficked for the purpose of selling their newborn babies abroad. These efforts should also include analysing vulnerability and perceived voluntariness displayed by those victims so as to ensure the cases are adequately labelled as a form of trafficking; regular and mandatory training of all front line persons who can potentially come into contact with the victims, i.e. border, health, social services, municipality employees, lawyers, law-enforcement and judiciary.

- Enhancing measures to identify victims of all forms of human trafficking, particularly labour exploitation through increasing proactive outreach activities to industries prone to exploitation, such as construction, agriculture, textile, tourism/hospitality and domestic work with the enhanced focus on migrant workers and irregular migrants in the country.

- Enhancing focus on the emerging trend of internal trafficking for the purpose of sexual and labour trafficking particularly in coastal areas of Bulgaria as well as trafficking for the purpose of forced criminal activities that primarily targets persons of Roma origin.

- Increasing the efforts of State Agency for Refugees (SAR) to identify trafficking victims among persons seeking international protection through evaluating their current practice of interviewing persons seeking international protection for trafficking indicators. This also includes developing tailored capacity building for front line employees and development of specialized screening tools to support identification of trafficking indicators.

- Taking serious account of the need to protect children from any risk of exploitation and from going missing during placement decisions, and ensuring that children are not placed with unrelated adults and in random accommodations.

- Taking immediate actions to improve victims' access to health care including by training medical personnel on trauma informed care and treatment tailored to the needs of the victim.

- Improving the scheme of free legal aid to trafficked persons which shall not require the proof of lack of means and is not limited to their residence in the shelter only. This task should

be included in the forthcoming new Strategy and NAP, including training of lawyers and legal representatives.

- Urgently develop simplified procedures for victims of trafficking to access financial compensation including by removing the requirement of proof of financial earnings on the part of the victim.

3. Enhance the criminal justice response to all forms of human trafficking by:

- Conducting an analysis of CC Articles 159a-159c with a view to examine its correct application in practice and potential overlap with other with other statutes.

- Allocating specialized human and financial resources to law enforcement and prosecutors to investigate human trafficking facilitated through the internet, including through continuous multi-department/agency training and capacity building activities to benefit from specialized technology tools which could scale up the fight against human trafficking.

- Providing comprehensive guidance and training to practitioners - particularly prosecutors and judges– on the constituent elements of trafficking, including on irrelevance of consent, as well as on trauma and victim-centred approaches.

- Improving investigations to identify and collect evidence in addition to victim testimony including by making use of special investigative tools, including wiretapping, surveillance and undercover operations in all trafficking cases, and by developing capacity building activities for investigators and prosecutors to advance victimless investigations and prosecutions.

- Establishing specialized units or developing specialization on THB in prosecution and judiciary across the country.

- Correctly applying the provisions of Article 159c of the Criminal Code to criminalize the use of services from trafficked persons.

- Including Bulgarian Financial Intelligence Unit (FIU) within the anti-trafficking agenda and increase co-operation between anti-money laundering practitioners and anti-trafficking stakeholders. This will allow for better information exchange and dialogue - such as typologies and red-flag indicators - with the financial services sector.

- Accelerating the adoption of the new criminal code including the provision that exonerates trafficking victims from punishment for administrative and criminal offences committed as a result or in the process of trafficking. Additional efforts should be made to provide guidance to all front-line members of law enforcement on the application of this principle and include training on the application of the principle in training curricular and materials pertinent to human trafficking and related crimes.

4. Enhance prevention of human trafficking by:

- Conducting a large-scale mapping of online platforms, which promote the sale of sexual services, escort services and pornography to detect and stop online recruitment and sexual exploitation of adults and children, including through partnerships with the private sector and civil society; developing national guidelines on institutionalized monitoring and coordinated data gathering and sharing between various agencies and organizations; and establishing a state-led regulatory framework that includes robust mandatory obligations for technology companies to adopt prevention measures, including age-verification for visitors, for those uploading content and for those depicted in the content.

- In co-operation with the NCCTHB, developing of the new NAP for the period of 2023-2024 with the primary focus on prevention of trafficking and exploitation of Roma population. The NAP should outline specific activities, responsibilities and funding to prevent the trafficking and exploitation of Roma population. This should include, but not be limited to, ensuring access to employment to reduce vulnerability; identifying, training and empowering persons from the Roma community to act as “Roma-led integration and empowerment” to engage in prevention campaigns in the educational facilities and in local communities.

- Increasing and supporting prevention efforts by focusing on the demand that fosters all forms of trafficking. This also entails including demand reduction as one of the key objectives and goals of the forthcoming Strategy followed with tangible and actionable tasks in the next NAP.

- Enhancing monitoring and control of the operations of temporary employment agencies and employment intermediaries, particularly unlicensed ones, to prevent deceptive recruitment for exploitation in labour.

- Enhancing the measures to identify victims of labour exploitation through increasing outreach activities and unscheduled inspections to industries prone to exploitation, such as agriculture, textile, tourism and hospitality and domestic work.

Programme of the visit

Tuesday, 22 June 2021	
09:00-11:00	Meeting with anti-trafficking NGOs
11:00-11:30	Meeting with Deputy Prime Minister for Public Order and Security, Minister of Interior and Chairperson of the NCCTHB
11:30-12:00	Meeting with Ombudsman of Bulgaria
12:00-12:45	Meeting with the Acting Secretary, NCCTHB Secretariat
13:30-14:45	Meeting with the Ministry of Interior, General Directorate Combating Organized Crime
14:50-15:30	Meeting with the General Directorate National Police/Criminal Police Directorate; General Directorate Border Police
16:00-16:45	Meeting with the Ministry of Justice, National Council for Assistance and Compensation to Victims of Crime, National Bureau for Legal Aid
16:50-17:20	Meeting with the Ministry of Foreign Affairs
Wednesday, 23 June 2021	
09:30-10:30	Meeting with the Prosecutor's Office; National Investigation Service
10:40-11:10	Meeting with the Supreme Court of Cassation, Criminal Chamber
11:20-12:00	Meeting with the State Agency for Refugees
13:30-14:00	Meeting with the Commission for Anti-Corruption and Illegal Assets Forfeiture of the Republic of Bulgaria
14:10-15:20	Meeting with the Ministry of Labour and Social Policy; Agency for Social Assistance; State Agency for Child Protection
15:25-16:30	Meeting with the Executive Agency Chief Labour Inspection; Employment Agency
16:35-17:00	Meeting with the State Agency for National Security/FIU
Thursday, 24 June 2021	
09:30-10:00	Press Briefing
10:40-11:20	Visit to the Shelter for adult victims of trafficking
11:20-12:00	Visit to the Crisis Centre for Children (victims of violence and trafficking)

Comments and Remarks of the Government of the Republic of Bulgaria on the Report of the OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings, Valiant Richey, following the official country visit to Bulgaria 22-24 June 2021

Received on 13 September 2022

The Government of the Republic of Bulgaria appreciates the Report of the OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings, Valiant Richey, following the official country visit to Bulgaria, 22-24 June 2021.

In his Report, the Special Representative commends Bulgaria for developing and adopting a robust legal framework to prevent and combat trafficking in human beings and welcomes the approach to co-ordination of anti-trafficking actions and the professional team of the National Commission for Combating Trafficking in Human Beings (NCCTHB). The Special Representative shares his key observations and concerns in the Report, with regard to specific actions and challenges in the country's anti-trafficking response, and makes further recommendations.

The Government of the Republic of Bulgaria wishes to thank the Special Representative for his Report and in the following, will present briefly several comments and remarks on the Report. The Government is fully determined to take into consideration the proposed recommendations to further improve the actual situation on the ground in the country.

Combating trafficking in human beings is a priority for the Government of the Republic of Bulgaria, which regards it as a serious crime and a severe violation of human rights, individual freedom and dignity. The national legal framework in this domain was completed a long time ago and all necessary administrative structures are in place. There is a well-established public consensus that the trafficking in persons is a severe violation of human rights, individual freedom and dignity.

* * *

The Government of the Republic of Bulgaria provides the following additional and explanatory information:

I. GENERAL COMMENTS: good practices in countering trafficking in human beings

There is a real-time **operational exchange of information on** potential victims and their traffickers. The information includes alerts, data from conversations with victims of trafficking and persons involved in trafficking, data coming from the interviewing teams at the border crossing points, statements from victims or their relatives, information from national and international entities.

The established **shared contact centres** at the Romanian, Serbian, North Macedonian and Greek borders ensure real-time information exchange on cases involving criminal activity, including human trafficking.

The administration of the National Commission for Combating Trafficking in Human Beings (NCCTHB) coordinates the activities of an **Interinstitutional Coordination Team, which**

handles cases of trafficking in human beings, established under the National Referral Mechanism for Victims of Human Trafficking. The team liaises with other national and international institutions and supports the process of identification, referral and assistance to victims of trafficking and investigation of cases.

Risk profiles of victims of trafficking and traffickers have been prepared, which are updated on a regular basis and are included in police training. The training covers all forms of human trafficking, especially cases of child trafficking (for the purpose of sexual exploitation, labour exploitation, beggary, pickpocketing, sale of newborns, etc.).

The **Interinstitutional Coordination Mechanism for referral and care of cases of unaccompanied children and child victims of trafficking** functions successfully. It aims to facilitate and speed up the work on cases reported by the country and abroad. Different state institutions are involved in the identification, transportation, rehabilitation and reintegration of the child – the Ministry of Interior, the State Agency for Child Protection (SACP), the Social Assistance Agency, the State Agency for Refugees (SAR), the NCCTHB, NGOs, etc. In the child protection departments, multidisciplinary teams operate on a case-by-case basis. The social-psychological work and support for this group of children begins at the border upon their arrival in the country.

Adequate **vocational training of staff** directly involved in tackling trafficking in human beings is one of the main factors to ensure the effectiveness of efforts made to counter trafficking in human beings. In this regard, the Ministry of Interior staff are familiar with the legislative framework regulating the fight against human trafficking as a serious form of organized crime, the main characteristics and trends in the development of the criminal phenomenon, the specific means and methods to prevent, detect and stop cases of trafficking, as well as with the specificity of working with victims of trafficking, especially women and children.

Working meetings with representatives of the competent institutions and organizations focused on opportunities to create more effective channels of communication in view of **timely exchange of information and coordination** on individual cases of victims of trafficking in human beings and storage and exchange of data.

The necessary organization has been established **for border checks in respect of Bulgarian minors and underage persons** when leaving Bulgaria. Particular attention is paid to border checks on Bulgarian minors and underage persons travelling with one parent, with an accompanying third party or unaccompanied, in order to rule out the possibility that the child will leave the country against the will of his/her parent(s). Additional checks verify the identity of the person and/or the accompanying persons and on the purpose of the journey if there is any doubt on the part of the staff at the border crossing point.

II. SPECIFIC COMMENTS

A. Inaccuracies

The Government of the Republic of Bulgaria would like to draw the attention to some inaccuracies in the information and data summarized in the afore-mentioned Report. There are quantitative and qualitative discrepancies between the findings in the Report and the information given by the institutions of the Republic of Bulgaria.

1. **On paragraph 36**, insofar as according to the official statistics of the Prosecutor's Office for 2019, 404 persons were victims in pre-trial proceedings and for 2021 their number was 468. Regarding paragraph 36, the Bulgarian Government would like to point out that because of a change in the organization for the information activity of the Prosecutor's Office,

as of 01.01.2022, the data collected is for the victims in the newly launched pre-trial proceedings, and not in the ones observed for the respective year.

2. **On paragraph 54**, as to a finding on a share of 80% of cases ending with a suspended sentence, with a relatively lower number of acquittals, which is probably derived from the number of suspended sentences and acquittals imposed. In this regard, it should be pointed out that the percentage of cases ending with a suspended sentence out of the total convictions is about 66%.

3. **On paragraph 65**, it is stated that during the meeting “*no data on THB cases detected and referred to law enforcement was provided*”. During the meeting with the Special Representative and in the course of the discussion, it was explicitly mentioned that in case of suspicions of the presence of violations of the law, including criminal offenses (trafficking in human beings) that fall outside the competence of the General Labour Inspectorate of the Employment Agency (GLI EA), the GLI EA promptly notifies the relevant competent authorities – the Prosecutor's Office, the Ministry of Interior, the National Commission for Combating Trafficking in Human Beings (NCCTHB) and others. It was mentioned that there are such cases, but the GLI EA does not keep specific statistics on the number of submitted signals containing this criminal offenses, as there is no obligation for this. It was expressly mentioned that, upon request, such information could be provided, for example for a previous three-year period.

4. **On paragraph 66**, the impression remains that the given information was provided by the Employment Agency. The findings included in this paragraph of the Report were not provided by the representative of the Employment Agency but by the GLI EA, including as regards:

- Identified cases of unlicensed intermediaries, which are detected and sanctioned in a timely manner;
- An identified new practice where temporary work agencies are re-registered as intermediary agencies, due to the fact that under the Bulgarian law they are not employers or have limited responsibilities;
- Concrete examples presented, as a result of the GLI EA’s control activity (case-specific information from 2020, when an employment intermediary is involved in recruiting 80 persons for seasonal work in France, who were found stranded at Paris airport);
- Information on positive cooperation between the labour inspectorates of the Republic of Bulgaria and the Republic of France, within the framework of joint control, in the agricultural sector, in order to detect undeclared employment and/or forms of labour exploitation, etc.

B. Clarifications and additional information

The Government of the Republic of Bulgaria wishes to give additional information regarding some statements in the Report in order to clarify the context.

5. **On page 28**, regarding the appointment of the Executive Secretary of the NCCTHB, the authorities would like to inform that by an Order of the Deputy Prime Minister for Good Governance № 3A-9/13.06.2022 an open procedure for selection of an Executive Secretary has been announced.

6. **On paragraph 43**, victims of trafficking for the purpose of sexual exploitation and victims of crimes based on gender, labour exploitation, etc., placed in protected institutions

who do not have the resources to authorize a lawyer to represent and protect them, can receive free legal assistance under the Legal Aid Act.

Initially, legal assistance is available in the form of consultations by lawyers on duty at Regional Counselling Centres, operating at some bar associations across the country. As of 2021, RCC have been set up and operate actively at the bar associations in Blagoevgrad, Varna, Veliko Tarnovo, Vidin, Gabrovo, Kardzhali, Pleven, Sliven, Sofia, Stara Zagora, Haskovo, Pazardzhik, Pernik, Lovech. Free legal assistance can be provided to victims, subsequently also for the preparation of complaints, claims for filing a lawsuit and representation in the pre-trial and judicial proceedings, in initiated and pending cases.

In 2021, the National Legal Aid Bureau was a beneficiary of project No 9 “Improving the access to justice for persons below the poverty line with a special focus on women, children and the Roma community” in partnership with the Norwegian Courts Administration. Three pilot centres were opened under the project – in Varna, Veliko Tarnovo and Stara Zagora. The project focuses in particular on three main target groups: victims of domestic and gender-based violence, children at risk and Roma communities, especially in remote and isolated rural areas. The project features activities to provide access to legal assistance for vulnerable groups through a local cooperation mechanism on domestic and gender-based violence, as well as counselling to prevent persons from these vulnerable groups from being used for sexual, labour exploitation as well as for the illicit trade in and sale of infants. Under the project we were created mobile teams of a coordinator, lawyers and Roma mediator who provide legal assistance to the individuals through consultations on the ground. One of the main objectives of mobile teams on the ground is to raise awareness of the availability and accessibility of free legal assistance. In this regard, various awareness campaigns are being carried out together with various relevant institutions, NGOs. To raise awareness among teenagers, visits to schools are organized, where students of various grades have lectures and discuss issues related to domestic violence, gender-based violence, human trafficking, drug use and distribution, etc.

Equal access to justice is available for all persons. To facilitate citizens, including victims of crime, the National Legal Aid Bureau runs a national telephone number 070018250 for the whole country. The National Legal Aid Line is a hotline where every citizen can receive free advice. Legal advice is provided free of charge by telephone by experienced lawyers. The consultation continues for up to 20 minutes.

Pursuant to Article 22(8) of the Legal Aid Act (LAA), where the provision of legal aid does not fall in the scope of any other legal basis, applicants for international protection under the Asylum and Refugees Act (ARA) are entitled to legal aid, irrespective of their gender. Following the 2020 amendments to the Asylum and Refugees Act, on the grounds of Article 25 therein, unaccompanied minor and underage foreigners seeking or granted international protection who are in the territory of the Republic of Bulgaria are represented by a lawyer registered in the legal aid register of the NLAB, designated by the chairperson of the NLAB, in the proceedings under the ARA, as well as before other administrative authorities, including social, health, educational and other institutions in the Republic of Bulgaria and in court proceedings. Once they come of age, the persons have the right to request from the NLAB to be provided with legal assistance under Article 22(8) of the LAA. The right to free legal assistance is enjoyed upon request by persons from a "vulnerable group", in accordance with paragraph 1(17) of the Transitional and Final Provisions of the ARA, such as minors and underage persons, unaccompanied minors and underage persons, persons with disabilities, elderly people, pregnant women, single parents with minors, victims of human trafficking, persons with serious health conditions, persons with mental disorders and persons who have suffered torture, rape or other serious forms of mental, physical or sexual violence.

Under section VIII, points 2(2) and (4): To improve the prevention of trafficking in human beings, the National Legal Aid Bureau, together with state and non-governmental organizations, actively participates, through existing coordination mechanisms and the conduct of various seminars and training events for expanded access to legal aid and protection of victims of trafficking, especially children and persons of Roma origin.

For lawyers providing legal assistance included in the National Register of Legal Aid, the National Bureau, together with the Krastyu Tsonchev Lawyers Training Centre, the court, SAR, Bulgarian Helsinki Committee and UNHCR, organize and hold regular training sessions, including ones related to human trafficking.

7. **On paragraph 59**, the Prosecutor General has submitted a request to the Constitutional Court to declare Article 329 of the Criminal Code norm as unconstitutional (case No 8/2022). The judgement of the court is expected.

8. **On the judiciary**, in response to the finding in the report on the general misunderstanding among the representatives of the judiciary that criminal liability in connection with the crime under Article 159c of the Criminal Code is aimed only at traffickers/pimps, who further benefit from the subsequent exploitation of the victim of human trafficking, we note that the information on the perpetrators found so far is presented on the basis of the existing case law. In this regard, we do not agree with the finding of a general misunderstanding of the content of this provision, given the lack of relevant survey among the representatives of the prosecution across the country; the lack of an analysis of whether cases against the users of the services of a victim of trafficking in human beings have been detected (for example by the bodies of the Ministry of Interior) and reported to the competent prosecutor's office, respectively what actions were taken in relation to such reported cases.

We cannot agree with the finding in the report about the lack of understanding among the representatives of the judiciary of the seriousness of trafficking and the violation of the human rights of the victims of this crime, as well as the number of sentences passed, where the serving of the sentence is postponed in accordance with Article 66 of the Criminal Code. In this regard, please note that a large part of these sentences are pronounced for acts committed under Article 159a of the Criminal Code, and that given the national pattern of trafficking in human beings, mainly related to trafficking abroad (also found in the report in question), a large part of the investigations require international legal assistance, leading to longer investigation deadlines. We further disagree with this finding, as both the activity of the Prosecutor's Office in the investigation and prosecution of these crimes (in addition to the reported number of convicts with an effective sentence for the period 2017-2021, we also note that total fines of BGN 1,667,600 (equivalent to about EUR 852,644) were imposed for the period, as well as the activity found in the report in the search for international legal assistance and for establishing joint investigation teams.

C. Remarks on recommendations

In the following, the Government of the Republic of Bulgaria would like to present its comments on specific recommendations given in the Report.

9. **On paragraph 58**, p.24, the Special Representative recommends that “Bulgaria use the confiscated assets to fund victim support and reparations, including compensation which was not evident from information provided during the visit” (regarding THB).

In this regard, it should be clarified that the Commission for Anti-Corruption and Illegal Assets Forfeiture (CACIAF) has the competence to identify, secure and forfeit illegally acquired

property in respect of persons under investigation and those linked to them for offences under Articles 159a - 159d of the Criminal Code, Section IX Trafficking in Persons. The CACIAF has a legal duty to notify the Inter-Ministerial Council of all final decisions on forfeiture of property in favour of the State, to complete the files and to submit the final court decisions for registration. The CACIAF has no statutory powers to participate in the decision-making process of the Inter-Ministerial Council regarding the management of the forfeited property. In this respect, taking action in accordance with the recommendation made in paragraph 58 of the report falls outside the scope of the competence of the CACIAF. The recommendation could be clarified to address the relevant government bodies.

10. **On the recommendation on p. 29**, regarding the protection of children from any risk of exploitation and from going missing during placement decisions, it should be noted that the court rules on the placement of a child in a family of relatives or close friends, in a foster family or in a social or integrated health and social residential care service. Until the court decision is delivered, the Social Assistance Directorate competent in the area of the child's current address ensures temporary accommodation under an administrative procedure.

Foster care is a child protection measure meant to ensure upbringing and care in a family environment of a child placed in a family of relatives or close friends or in a foster family. Families of relatives or close friends, applicants for foster families and approved foster families are supported through social services, including activities for recruitment and evaluation of applicants for foster families, training, mutual adaptation, support and monitoring of the child's upbringing.

In Bulgaria, validation of foster care applicants is carried out by the Foster Care Commission, which operates at the Regional Social Assistance Directorate. Foster parent candidates undergo a social survey and appraisal. The Regional Social Assistance Directorate maintains a register of approved foster families. The foster family can also be professional, in which case it must also possess an additional childcare qualification, acquired in accordance with the ordinance, and conclude a contract with the municipality, a licensed social service provider or the Social Assistance Directorate.

Please note that the quality of foster care provided is monitored both by the Child Protection Departments at the Social Assistance Directorates and by the District Foster Care Team (DFCT) if the foster care is provided within the "Accept Me" project. The project was launched on 1 December 2015 under the Operational Programme for Human Resources Development 2014-2020. The implementation and validation of the regional model of organization, management and provision of foster care has enhanced foster care effectiveness and quality as a protection measure, as well as successful development towards professionalization of foster families by providing professional support by regional teams, monitoring the quality of the service provided, regular training and supervision for active foster families and teams. Each foster family receives the necessary training and preparation to provide care for a child at risk. During the training and when providing childcare, foster families get acquainted in detail with the long-term childcare options.

When placing the child in a family of relatives or close friends, the person where the child will be placed gives his/her consent and he/she is subject to a suitability check. The receiving person grants his/her consent by signing a sample declaration.

The adoption of the Social Services Act regulates the provision, use, planning, financing, quality, control and monitoring of social services in the Republic of Bulgaria. These are the key issues whose regulation is important for the social services sector, which on the one hand is related to ensuring access to social support and meeting the needs and respect for people's

rights, and on the other hand to the effective functioning of the system at national and local level. The main objectives of the Act are to ensure access to services, their quality and effectiveness and the right to life in a family environment and in the community, as well as to promote an integrated approach and public-private partnership. It also lays down the basic principles of organising and providing social services. Social services are defined as activities to support the prevention and/or overcoming social exclusion, respect for rights and improvement of the quality of life. They are based on social work, individual approach and individual needs assessment. Social services are not defined by the specific place of their provision, but depending on the main groups of activities, the content of each of them is defined in the Act. The Social Assistance Agency strategic efforts are aimed at building a network of community-based social services, thus ensuring the overall process of support and protection of children's rights and interests.

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The Government of the Republic of Bulgaria has thereby reviewed the Report by the OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings, Valiant Richey, and kindly requests the given comments and remarks to be taken into account.

Overall and assuredly, the shared key observations and concerns in the Report are objective and the Government of the Republic of Bulgaria commends the work and professionalism of the Special Representative.

Since combating trafficking in human beings is a priority for the Government of the Republic of Bulgaria, we wish to express our highest gratitude and hopes for future cooperation. With joint efforts, we can continue working for the ever so necessary cause of combating trafficking in human beings and standing up for human rights, individual freedom and dignity.

Sofia, September 2022