

CONCEPT (translation has not been approved)

**National Action Plan against  
TRAFFICKING IN HUMAN BEINGS**

Additional Government measures  
in the framework of combating trafficking in human beings in the Netherlands

**December 2004**

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# 1. Introduction

## 1.1 Background

On 5 June 2002, the Government sent the first report from the Dutch National Rapporteur on Trafficking in Human Beings (NRM) to the Lower House<sup>1</sup>. The Government response to this report was discussed during a general parliamentary consultation on 18 November 2003 and during a Continued General Parliamentary Consultation on 25 November 2003<sup>2</sup>. The second (statistical) report by the NRM was sent to the Lower House on 23 January 2003<sup>3</sup>.

In its third report, the NRM again discusses in depth the state of affairs as regards trafficking in human beings (THB) in the Netherlands and makes recommendations in respect of legislation and regulations, the B9 regulation, victims of THB, victim support and the representation of victims' interests, research and registration, law enforcement in general (including prostitution), investigation and prosecution and other aspects of THB<sup>4</sup>. Therefore, the recommendations made focus on a broad area of policy relevant for the action to be taken against THB. The NRM's recommendations are aimed at various ministries, but, by virtue of its content, the report is also directed at a number of other parties (the police, the Public Prosecution Service (PPS), the Immigration and Naturalisation Service [*Immigratie- en Naturalisatiedienst (IND)*], victim support and reception facilities, etc.).

As indicated when presenting the third report, the action plan now before you constitutes the Government's response to the recommendations made by the NRM. Therefore, this action plan will address the sub-areas indicated above in relation to combating THB.

The Government has produced this National Action Plan against THB in order to clarify the measures that are being put in place to improve the combating of THB. In order to achieve the integral and balanced presentation of all of the various measures being put in place for this purpose, measures from other sources (or references to these measures) have also been included in this action plan (see below under 'Sources'). For example, the Action Plan on the Regulation and Protection of the Prostitution Industry [*Plan van aanpak Ordening en Bescherming Prostitutiesector*] has already responded to various recommendations proposed by the NRM. Where measures have been included from other sources, their status is also indicated. As regards these measures, this National Action Plan against Trafficking in Human Beings can also be regarded as a progress report.

By bringing together the above measures, the National Action Plan against Trafficking in Human Beings can form the basis for any future discussions with the Lower House on combating THB, during which implementation of the recommendations made by the Dutch National Rapporteur on THB and the progress of various initiatives and activities aimed at combating THB can be monitored and modified.

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<sup>1</sup> Parliamentary documents II, 2001-2002, non-file document just020497.

<sup>2</sup> Government response to the first report by the NRM, Parliamentary documents II, 2002-2003, 28 638, no. 1; General Parliamentary Consultation on trafficking in human beings, Parliamentary documents II, 2003-2004, 28 687, no. 69).

<sup>3</sup> Parliamentary documents II, 2002-2003, non-file document just030073.

<sup>4</sup> Parliamentary documents II, 2003-2004, 28 638, no. 10.

## 1.2 Sources

Measures aimed at improved combating of THB have been taken from the sources below and brought together in this National Action Plan against Trafficking in Human Beings.

### **- The reports produced by the Dutch National Rapporteur on THB (NRM)**

The Minister of Justice has promised the Lower House that the status of the recommendations made in the first NRM report will be included in the response to the NRM's third report<sup>5</sup>. Where the action plan follows the recommendations made in the first report, this will be indicated as follows: (NRM 1). Where there is a connection with recommendations from the third report, this will also be indicated: (NRM 3, no. ).

### **- The Action Plan on the Regulation and Protection of the Prostitution Industry (OBP)**

One of the objectives underlying the lifting of the general ban on brothels with effect from 1 October 2000 and the corresponding prostitution policy is to improve the combating of THB. For this reason, it is extremely important that this policy be implemented and pursued in a clear and unambiguous way in practice in all (sub-) areas. Any gaps or shortcomings could contribute to situations in which THB is able to flourish more readily. Therefore, the government authorities which are involved in implementing prostitution policy should, together with their partner organisations, do everything possible to iron out existing shortcomings in this policy. This may vary from the consistent application of implementation rules and proper and strict administrative enforcement, to issues such as sufficient opportunities for the setting up of (bona fide) prostitution establishments, the provision of information and programmes targeting individuals wanting to leave the sector (NRM 3, 32). In order to promote and monitor policy implementation, the Minister of Justice, on behalf of the Government, sent the Action Plan on the Regulation and Protection of the Prostitution Industry to the Lower House in July 2004<sup>6</sup>. This action plan – particularly Chapter 4 (Investigation and Prosecution) and Chapter 5 ('Loverboy' Phenomenon) – sets out concrete measures for the improvement of the investigation and prosecution of THB. A number of these measures are included below<sup>7</sup>. Measures adopted from the Action Plan on the Regulation and Protection of the Prostitution Industry will be indicated as follows: (OBP, no. ).

### **- The Policy Document on Illegal Aliens**

The Government believes that, in combating THB, repressive measures should not work against prevention, nor against a humanitarian approach focusing on the victim, i.e. human rights. Effective repression ensures that perpetrators are unable to continue their activities undisturbed and create new victims. Therefore, prevention is served well by repressive measures (also see NRM 3, 17). Care must be taken to prevent situations where victims are 'used' by the government during investigations and prosecutions, and where the interests of the victim are ignored, as well as the fact that THB seriously undermines the victim's ability to exercise his/her human rights (NRM 3, 31). Repression and an approach focusing on the victim's human rights are not opposite but complementary approaches. Partly for this reason, the Policy Document on Illegal Aliens includes a section on THB, with measures geared towards ensuring that sufficient consideration be given to the possible victims of THB who are encountered in the context of repressive activities carried out while combating the problem of illegal aliens<sup>8</sup>. Given the importance of these measures, a number of them will also be included in this National Action Plan against Trafficking in Human Beings.

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<sup>5</sup> General parliamentary consultation on THB, dated 18 November 2003; Parliamentary documents II, 2003-2004, 28 638, no. 9.

<sup>6</sup> Parliamentary documents II, 2003-2004, 25 437, no. 46.

<sup>7</sup> This does not alter the fact that those measures from the action plan relevant to the combating of THB that have not been included in the current Action Plan are also relevant to the combating of THB.

<sup>8</sup> Parliamentary documents II, 2003-2004, 29 537, no. 1.

**- The B9 working conference**

Further to an undertaking on the part of the Minister for Alien Affairs and Integration during the general parliamentary consultations on Prostitution and THB in November 2003, a working conference was held with the organisations involved in the field on the possibilities that exist for the improved implementation of the B9 regulation. This working conference resulted in a number of actions to be developed in more detail, for instance in the field of information exchange between the organisations involved, the detection of problems in terms of implementation, information provision to victims, supporting the reception of victims of THB, the compilation of a file containing data obtained from various organisations relevant for the assessment of applications for continued residence in the Netherlands or for repatriation. The majority of the above actions have now been set in motion.

**- UNICEF/ECPAT report 'Unseen and unheard; child trafficking in the Netherlands'**

One of the conclusions arrived at in the UNICEF report is that there are indications of child trafficking and the exploitation of minors in the Netherlands in sectors within and outside the sex industry. This justifies a tough stance towards child trafficking. Indeed, the nature and impact of child trafficking are serious enough to respond swiftly to this problem – even without exactly knowing what its extent is. If child trafficking is to be combated properly, it is essential to know where abuse is occurring and what the corresponding background, structures and trends are. The UNICEF report indicates a number of stumbling blocks, for instance the lack of capacity and the way in which potential victims are registered. Where the UNICEF report has been followed in this National Action Plan against Trafficking in Human Beings, this will be indicated as follows: (UNICEF, page ).

**- OCSE Action Plan**

In 2003, the Netherlands held the presidency of the OCSE, in the framework of which it announced that it would give priority to the problem of trafficking in human beings. In recent years, THB has primarily been discussed on the OCSE agenda from the 'human dimension' perspective. In addition, particular focus was placed on support projects in countries with OCSE field offices. In 2003, the Dutch presidency made efforts to broaden attention to all 3 OCSE dimensions (including attention for political aspects, economic aspects, etc.) and to emphasise that the effective combating of THB requires an approach both to the east and to the west of Vienna. After one year of OCSE presidency, the most important results are the achievement of the OCSE Action plan on THB and acceptance of the mandate for a Special Mechanism on Trafficking in Human Beings during the OCSE Ministerial Council agreed in Maastricht. In mid May 2004, Mrs. Helga Konrad was appointed Special Representative on Trafficking in Human Beings. She oversees a special unit in the OCSE Secretariat that works with the coordinators already appointed in 17 countries, who also coordinate the other countries. This joint undertaking is to implement the action points from the OCSE Action Plan<sup>9</sup>. Where the recommendations from the OCSE Action Plan result in specific measures in the Netherlands, these will be indicated as follows: (OCSE, no. ).

**- Terre des Hommes report 'Lost kids, lost futures. The European Union's response to Child Trafficking'**

In September 2004, Terre des Hommes published a report on child trafficking and the EU, in which it made numerous recommendations for the most effective European approach to child trafficking. In the opinion of Terre des Hommes, more priority must be given to the problem of child trafficking by the EU. The measures for combating child trafficking, central to which are the interests of the child, must no longer fail to utilise the full potential of legal instruments available. The combating of child trafficking would be helped by a multidisciplinary approach adopted by all of the countries in the trafficking chain, thus focusing on countries of origin, transit and destination. Where recommendations lead to specific measures in the Netherlands, these will be indicated as follows: (TdH, no. ).

When producing this National Action Plan against Trafficking in Human Beings, the Draft of the European Convention on Action against Trafficking in Human Beings formulated by the *Council of*

<sup>9</sup> [www.osce.org/docs/english/pc/2003/decisions/pced557.pdf](http://www.osce.org/docs/english/pc/2003/decisions/pced557.pdf)

*Europe* (CAHTEH) and the Draft report of the *European Experts Group on Trafficking in Human Beings*, which was set up by the European Commission, have been taken into consideration wherever possible. Although these documents have not yet been finalised and, as such, have not yet resulted in recommendations to or obligations on the part of member states, they may form the basis for the (international) combating of THB.

## 2 Legislation and regulations

### 2.1 Trafficking in human beings in (an international) perspective

The UN Convention against Transnational Organised Crime, the corresponding UN Protocol on THB<sup>10</sup>, the protocol to the UN Convention on the rights of the child<sup>11</sup> and the EU Framework Decision on Combating Trafficking in Human Beings<sup>12</sup>, amongst others, lay down internationally accepted starting points and requirements for combating THB.

The objectives underlying the UN Protocol are formulated as follows: a) the prevention and combating of THB, with particular attention for women and children; b) the protection of and provision of assistance to victims of this trade, with full respect for their human rights; c) the promotion of collaboration between the States that are a party to the protocol in order to achieve these objectives. Dutch criminal legislation will be brought in line with the above as soon as possible, enabling the Netherlands to take advantage of the mechanisms for monitoring and further implementation that have already been set in motion in relation to the UN Convention and the UN Protocol (NRM 3, 1 and OCSE, III, 1.1.-1.8, 2.2)<sup>13</sup>.

The measures set out in this National Action Plan against Trafficking in Human Beings may also be regarded as supporting policy for legislation on implementation of the international instruments referred to above. A number of perspectives play a role, both when formulating (international) legislation and when developing supporting policy.

#### *- The human rights perspective*

The combating of THB should occur in the context of human rights. For the victims involved, THB has a negative impact on their ability to exercise their human rights. For example, the preamble to the UN Protocol against THB indicates that a comprehensive international approach is required, which includes measures to protect victims of THB, including the protection of their internationally recognised human rights<sup>14</sup>. Article 2 of the Protocol states that the object is to protect and support victims of THB, with complete respect for their human rights. The human rights of victims of THB must be paramount to all measures geared towards the prevention and combating of THB and the provision of support for and the reintegration of victims<sup>15</sup>. The OCSE and the EU emphasise the relationship between THB and human rights<sup>16</sup>. In the Charter of Fundamental Rights, as part of the EU Constitution for Europe, the ban against THB is also placed in the context of respect for human rights (NRM 3, 4 and OCSE, IV 5.2). After all, THB constitutes the violation of human rights, against which action must be taken.

Where children are the victims of THB, the specific rights of children play a role. The Netherlands is a party to the Convention on the Rights of the Child, in which Articles 32 et seq. in particular contain legally binding provisions in respect of the exploitation of children. In addition, an Optional Protocol to this Convention adopted in 2000 includes a ban on the sale of children, as well as a ban on child prostitution and child pornography. The supervision of compliance with this Convention lies with the

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<sup>10</sup> Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, New York, 15 November 2000 (Treaty Series 2001, 69).

<sup>11</sup> Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (Treaty Series 2001, 63).

<sup>12</sup> EU Framework Decision on Combating Trafficking in Human Beings, dated 19 July 2002 (OJ L203) and the EU Framework Decision to combat the sexual exploitation of children and child pornography (OJ L13).

<sup>13</sup> Appendix 2 contains the text of the current Article 250a of the Criminal Code and of the proposal for amendment of the Criminal Code (Article 273a of the Criminal Code).

<sup>14</sup> United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

<sup>15</sup> United Nations High Commissioner for Human Rights (UNHCR), Recommended Principles and Guidelines on Human Rights and Human Trafficking, New York and Geneva, 2002.

<sup>16</sup> OCSE Declaration on trafficking in Human Beings, 2002; EU Charter of the Fundamental Rights, Recital No. 3 of the Framework Decision on Trafficking in Human Beings.

UN Committee on the Rights of the Child. In addition, the vulnerable position of and the protection needed for victims of child trafficking have prompted many other international organisations to formulate recommendations and [guidelines](#)<sup>17</sup>.

**Opmerking [ETL1]:** Voetnoot 17 verwijst naar voetnoot 14, maar volgens ons moet dit voetnoot 15 zijn; dit hebben wij in de vertaling aangehouden.

One of the main characteristics when combating THB on the basis of a human-rights approach is that the rights of the victim are central to prevention, reception, admission or reintegration into the country of origin. A repressive approach towards traffickers in human beings is not contrary to, but actually beneficial to this type of approach: after all, an effective repressive approach can have a preventive effect on the one hand, while, on the other hand, providing a remedy and compensation for the victim.

Therefore, an essential element of the human-rights based approach to THB is that steps must be taken to ensure that the human rights of individual victims (whether they be migrants, prostitutes, refugees or asylum seekers) are not undermined, damaged or limited when putting measures in place against THB. Indeed, measures must strengthen the position of victims of THB and facilitate their ‘empowerment’, participation and self-organisation.

The shape taken by a ‘human-rights based approach’ in practice will depend on the stage at which measures are put in place during the process of combating THB, and on the specific circumstances of the case. In terms of activities in the framework of prevention, investigation, prosecution, victim support, repatriation and reintegration, various points can be identified at which (considered from the point of view of both the perpetrator and the victim) human rights may be at stake and where attention must be given to the risk of human rights violations (OCSE, V 3.2). These points will be elaborated on in more detail below.

No.	Action	Initiative	End date
1	Research into the points of risk for the violation of human rights during prevention, investigation, prosecution, victim support, repatriation and reintegration activities.	Justice and Foreign Affairs	1 September 2005

***- The migration perspective***

THB is a crime that is strongly linked to the problem of migration. Many victims of THB are migrants who find themselves in a situation where they are being exploited (particularly in informal and unprotected sectors of the economy).

It is feared that ‘push and pull factors’, such as increasing inequality in terms of prosperity between and within countries, the increasing demand for cheap, unskilled labour and the increased mobility of labour, will encourage migration. The Government also recognises the impact of measures that restrict migration. It is clear that the extent to which legal and regulated migration is possible determines the way in which the demand for workers in informal and unregulated sectors (such as domestic work, au pair work, etc.) can be met. A restrictive response to migration and immigration will expose migrants to unregulated and undesirable forms of migration and illegal employment.

Therefore, it will be important to continually devote intensive attention to macro factors that are or could form the root cause of international THB, such as the lack of employment and development opportunities, poverty and gender problems. Factors such as these, particularly in relation to THB, are involved in (development) relations with other countries. Genuine success in the fight against THB can only be achieved if the national and international community commits itself fully and with conviction to tackling the more fundamental causes of the phenomenon of THB (NRM 1, OCSE, IV 3.1-3.3, TdH, 16).

<sup>17</sup> Ref. Footnote 15: UNHCR, Recommended Principles and Guidelines on Human Rights and Human Trafficking, which includes a separate guideline on children, and ref. UNICEF Guidelines for Protection of the Rights of Children Victims of Trafficking in South Eastern Europe, May 2003.



### ***- The gender perspective and the ethnic perspective***

Although both men and women find themselves the victims of THB (particularly given the expansion of the definition of the term THB to sectors other than the sex industry), it is not a gender-neutral phenomenon. Women and girls are victims in a different way to men as regards the sectors in which they are put to work and exploited, the forms of abuse and exploitation to which they are subjected and the consequences of this subjection. Discrimination and the inequality of power based on racial or ethnic differences also play a role. Both of the above perspectives are taken into consideration wherever possible when combating THB.

### ***- The safety perspective***

Cross-border THB in particular is generally organised in such a way that many links in the chain are involved in it and are responsible for various activities within the Netherlands and abroad (from recruitment, via transport, to employment). Despite the often informal organisation, many criminal elements are involved in the preparation and completion of THB. International safety experts suspect that political extremism (terrorism) is often financed through the trade in drugs and people organised by transnational criminal groups. It has been found that structures set up by organised crime (for THB, for example) are used for various purposes. Therefore, it is quite right, also from the point of view of safety, that THB has been identified as an area of attention for the National Criminal Investigation Department in the framework of the combating of organised crime (see Section 4.4).

## **2.2 National legislation and regulations on THB**

At the current time, the criminal law approach to combating THB is based on Article 250a of the Criminal Code<sup>18</sup>. In implementation of the international documents on the combating of THB referred to in 2.1, a new article of the Criminal Code is in preparation: Article 273<sup>19</sup>. Given the human rights perspective, this Article will fall under Title XVIII 'Crimes against personal freedom'.

Central to the amendment of the Code is a broadening of the definition of THB to include other forms of slavery-like exploitation in economic sectors outside the sex industry. Although this broadening also encompasses other economic sectors, it is clear that the excesses eligible for investigation and prosecution under the new THB Article will primarily be found in connection with the sex industry. Exploitation for sexual purposes is of a specific nature in comparison with other forms of exploitation, given the major violation of human rights that this entails (for instance, violation of bodily integrity). Therefore, the specific nature and seriousness of exploitation for sexual purposes in comparison with exploitation in other socio-economic sectors will be clearly expressed in the new instructions from the Board of Procurators General (NRM 3, 2).

As part of the above amendment to the Code, the term 'exploitation at work' outside the sex industry, is being defined in as much detail as possible. The results of the exploratory study into the way modern slavery manifests itself are also being taken into consideration in this respect<sup>20</sup>. With due consideration of the results of this study, agreement will be sought at an international and, at any rate, European level on the scope of the term 'exploitation at work', so that joint (international) investigations and extradition for this type of THB will largely focus on misconduct of the same degree of seriousness. When doing this, it will be important to consider the rationale of the convention's requirement for the punishability of conduct under the heading THB, i.e. where a serious violation of human rights is involved, that is to say, in the case of excesses (NRM 3, 3).

In the broad field focusing on the combating of THB, each of the chain partners involved will have to anticipate the potential consequences of the impending broadening of the definition of THB and the

<sup>18</sup> See Appendix 1 for the text of the present article in the Criminal Code on trafficking in human beings.

<sup>19</sup> The bill for the implementation of international regulations on the combating of human smuggling and trafficking in human beings was passed by the Upper House on 7 December 2004 (29 291).

<sup>20</sup> 'Slavernij-achtige uitbuiting in Nederland, een inventariserende literatuurstudie in het kader van de uitbreiding van de strafbaarstelling van mensenhandel'; J. van der Leun and L. Vervoorn, E.M. Meijers Institute of Legal Studies at the Law Faculty of Leiden University, 2004, commissioned by the WODC, is expected in December 2004.

relevant article in the Criminal Code. Consideration is now being given to ascertaining exactly which measures are needed and how they can be implemented. What is particularly called for here is to clearly set out the role to be played by each of the organisations involved and to make these organisations aware of the importance of their contribution to the tackling of THB. Given the definition's focus on exploitation in employment relationships, the above will particularly involve the Ministry of Social Affairs and Employment and the inspectorates that fall under it (i.e. the Social Security Investigation and Detection Service (SIOD) and the Health and Safety Inspectorates) (NRM 3, 54).

In response to the repeated call in international documents for training to be given to all officials and other individuals involved in tackling THB, more attention should be given to education and training. In-depth knowledge that is regularly updated is indispensable for the actual tackling of THB. Several initiatives have already been developed and implemented for various partners in the chain. For example, a THB module now forms part of police training, while a THB course has been added to the programme provided by the Training and Study Centre for the Judiciary [*Studiecentrum Rechtspleging (SSR)*] for members of the PPS. At the present time, no provisions of this nature are available for members of the judiciary or for officials from various other chain partners. Currently, consideration is being given to the question of whether all of the chain partners involved in combating THB can be provided with a structural programme on THB, in which specific attention is also paid to child trafficking (NRM 3, 56; OCSE, III 5.1-5.2 and IV 4.4 and UNICEF, page 29-2).

No.	Action	Initiative	End date
2	Entry into force of Article 273a of the Criminal Code	Justice	1 January 2005

No.	Action	Initiative	End date
3	The specific nature and seriousness of exploitation for sexual purposes in comparison with exploitation in other socio-economic sectors will be expressed clearly in the new instructions from the Board of Procurators General.	Justice	1 May 2005

No.	Action	Initiative	End date
4	The term 'exploitation at work' will be defined clearly at a national and international level.	Justice and Foreign Affairs	1 May 2005

No.	Action	Initiative	End date
5	Consultation with the organisations involved in order to make them aware of their role and the importance of their contribution to combating THB.	Justice, Social Affairs and Employment, Finance	1 May 2005

No.	Action	Initiative	End date
6	Ascertain whether a structural programme on THB (with specific attention for child trafficking) can be arranged for all chain partners involved in combating THB.	Justice, Social Affairs and Employment, Finance	1 May 2005

### 2.3 Other legislation

Since many new (international) regulations have been formulated on THB in recent years, attention in the years ahead must focus primarily on their implementation and practical implications. After all, the successful implementation of these regulations is what matters to law enforcement and is what continues to give meaning to these regulations. New regulations should only (still) be considered if they add something (substantive) to the existing body of regulations (NRM 3, 35). However, a number of matters in the field of (criminal) law should be addressed further.

The EU Framework Decision on the status of the victim in criminal proceedings has not resulted in any amendments to Dutch legislation or regulations. This was not necessary, since the Netherlands already has a quite high level of victim support. In general, victims are informed of their rights and legal position on time and, where necessary, are referred to Victim Support branches and legal aid offices. Both organisations are familiar with the specific needs of this group and their opportunities for recourse. The Framework Decision has been implemented in broad outline in a bill to be submitted to the Council of State for its advice in the near future (December) (NRM 3, 5).

For the time being, the Aliens Employment Act [Wet Arbeid Vreemdelingen (WAV)] will continue to apply for the sex industry and the prohibitory provision laid down in Article 3 of the Implementation Decree will remain in force for the indefinite future. The reason for this is the apparent impossibility at the present time to develop an alternative system facilitating the assessment of whether or not any labour market interest could be served by admitting prostitutes from outside the EU/EEA. What is more, much uncertainty still exists on the status of employment relationships in prostitution. As a result, it is not yet possible to reliably develop criteria for the possible admission of prostitutes. Only when this and the determination of a specific need for admission are possible can the discussion on the WAV (Implementation) Decree be resumed (NRM 3, 6).

Since 1 May 2004, a transitional regime has been applicable for subjects of the eight new member states of the EU in Central and Eastern Europe, under which regime the free movement of employees will not apply until 1 May 2006. As such, the conditions of the WAV apply. Subjects from these countries wishing to work in the sex industry in salaried employment are subject to the above-mentioned prohibition to issue a work permit. Before 1 May 2006, the Government will decide whether or not to extend the transition period. When the free movement of employees becomes possible for subjects of the new member states, this will apply unimpaired for activities in the sex industry (NRM 3, 7).

No.	Action	Initiative	End date
7	Decision-making on introduction of the free movement of employees from the new EU member states.	Social Affairs and Employment	1 May 2006

Various international instruments exist in the field of the slave trade and THB. Articles 274 up to and including 277 of the Criminal Code serve partly to facilitate the implementation of instruments geared towards combating slavery, the slave trade and practices similar to slavery. For the time being, there is sufficient reason in our criminal legislation for the separate penalisation of the slave trade and certain forms of participation therein on the one hand and of THB on the other. Once the necessary experience has been gained with the new Article 273a of the Criminal Code on THB and an insight has been obtained into its impact, the question can be answered as to whether or not it is necessary to maintain separate provisions on the slave trade. When answering this question, the development of law in other countries can also be considered. Contrary to the recommendation made by the National Rapporteur on THB, there is currently no reason to request attention, in an international context, for the overlap between THB in a broad sense, on the one hand, and slavery, the slave trade and institutions or practices considered equivalent to slavery on the other hand (NRM 3, 8).

The Government will discuss with its chain partners whether, and if so, in which form, penalisation of the deliberate buying of sexual services from individuals who are clearly being forced to perform sexual acts with another individual can have added value for the combating of THB. These discussions will also consider the present punishability applicable to individuals buying sexual services from underage persons and the desirability and practical enforceability of making such acts a punishable offence (NRM 3, 9).

No.	Action	Initiative	End date
8	With chain partners, discuss added value of penalisation of individuals knowingly buying sexual services from individuals who are clearly being forced to perform sexual acts with another individual.	Justice	1 May 2005

As regards the strict toleration ban put forward in the Rouvoet motion, the Government takes the view that this must be upheld in full in THB cases, as human dignity is always at stake in crimes of this nature (NRM 1, NRM 3, 62). Since the NRM is observing a need in investigation and prosecution practice for a differentiated approach for each specific case and the police and judiciary are evidently aiming to achieve this differentiation by applying the ban without compromising the essence of the motion, the Government will discuss the impact of the Rouvoet motion on judicial practice with the PPS.

No.	Action	Initiative	End date
9	Discuss impact of the ban on toleration for judicial practice with the PPS.	Justice	1 May 2005

### 3 Preventing THB

As already indicated above (Section 2.1), *cross-border THB* is a crime that is closely connected to the migration problem. Many victims of THB are migrants who have found themselves in a situation where they are being exploited (particularly in informal and unprotected sectors of the economy). As such, where the prevention of cross-border THB is concerned, it is crucial that ‘push and pull factors’ be removed or reduced, such as the increasing inequality in prosperity between and within countries, the increasing demand for cheap, unskilled labour and the increased mobility of labour. Therefore, it will be important to continually devote intensive attention to macro factors that are or could form the root cause of international THB, such as the lack of employment and development opportunities, poverty and gender problems. Factors such as these, particularly in relation to THB, are involved in (development) relations with other countries. Genuine success in the fight against THB can only be achieved if the national and international community commits itself fully and with conviction to tackling the more fundamental causes of the phenomenon of THB (NRM 1, OCSE, IV 3.1-3.3, TdH, 16). A discussion of the measures encountered in this connection falls outside the scope of this action plan. However, the Government does refer to the letter sent to the Lower House by the Minister of Development Cooperation and the Minister of Immigration Policy and Integration in June 2004, which letter concerned connections between development and migration and, in particular, to the policy document attached to this letter<sup>21</sup>. This policy document states that the Government is striving to achieve the integrated combating of the problem of illegal workers, human smuggling and THB at bilateral, EU and other, multilateral levels.

The Government realises that measures that restrict migration could have a negative impact on THB. The extent to which legal and regulated migration is possible determines the way in which demand for workers in THB-sensitive sectors (such as domestic work, au pair work, prostitution, construction, agriculture, etc.) can be met. A restrictive response to migration and immigration will expose migrants to unregulated and undesirable forms of migration and illegal employment. Therefore, the potential impact of these measures on migration crime (including THB) will be considered wherever possible during decision-making on measures that restrict migration.

No.	Action	Initiative	End date
10	In decision-making on measures that restrict migration, consider the potential impact of these measures on migration crime (including THB).	Alien Affairs and Integration, Social Affairs and Employment	ongoing

As regards prevention on the supply side of cross-border THB, an important role is played by embassies and consulates in the countries of origin of victims of THB. In its Action Plan on the Regulation and Protection of the Prostitution Industry, the Government has already indicated that the provision of information to foreign prostitutes and potential prostitutes in the Netherlands and abroad requires extra attention, particularly given the expansion of the EU. It is important that the information provided address four different categories: EU countries, new member states, association countries and countries outside the EU. This information will be presented together with more general information on working in the Netherlands, with prostitution being discussed as one of the sectors of employment. By distributing information via Dutch embassy websites, this can also be tailored towards the specific situation of the country in question, in the language customary in that country (OBP, 6.3).

Before January 2005, guidelines on the financing of projects in the field of THB will be issued to the posts in the most important countries of origin. The preventive role that embassies can play in the combating of THB (and related subjects, such as child trafficking, the trade in child pornography and child sex tourism) will also be emphasised in these guidelines (OBP, 4.5). In addition, the Minister of Foreign Affairs and the Minister for Alien Affairs and Integration will ascertain the extent to which projects in the field of awareness raising in the countries from which victims of THB originate can be funded.

<sup>21</sup> Parliamentary documents II, 2003-2004, 29 693, no. 1.

No.	Action	Initiative	End date
11	<p>Pay extra attention to the provision of information to foreign prostitutes and potential prostitutes in the Netherlands and abroad, to be provided together with more general information about working in the Netherlands (OBP, 6.3).</p> <p><i>Progress: on 26 June 2003, a detailed memo, containing information on the preventive task that embassies have, was sent to a selected group of posts. Particular emphasis was placed on the tasks that posts have in the field of detection, the provision of information and the gathering of information.</i></p> <p><i>In mid 2004, a Questions &amp; Answers on Prostitution brochure was published, in which extensive attention was also paid to the combating of THB and the support available for possible victims. This Q&amp;A was translated into six languages (French, English, German, Spanish, Italian and Russian).</i></p>	Foreign Affairs	1 January 2005

No.	Action	Initiative	End date
12	<p>The embassies in the most important countries of origin will be provided with guidelines on the funding of projects in the field of THB, in particular projects geared towards prevention and reintegration. (OBP, 4.5)</p> <p><i>Progress: Before January 2005, guidelines on the funding of projects in the field of THB will be issued to the posts in the most important countries of origin. The preventive role that embassies can play in the combating of THB (and related subjects, such as child trafficking, the trade in child pornography and child sex tourism) will also be emphasised in these guidelines.</i></p>	Foreign Affairs	1 January 2005

No.	Action	Initiative	End date
13	<p>Ascertain the extent to which projects in the field of awareness raising in countries from which victims of THB originate can be funded.</p>	Alien Affairs and Integration and Foreign Affairs	1 May 2005

The demand side of THB also requires attention. This particularly concerns raising awareness amongst employers and clients in the Netherlands of the punishability of THB and of possible signs of (victims of) THB. This awareness raising will be promoted by means of campaigns aimed at specific target groups (see Section 4.1).

As regards the sex industry, the lifting of the general ban on brothels was intended to reduce THB in the sex industry, amongst other things. By permitting the exploitation of prostitution under strict conditions, it becomes possible to regulate the licensed part of the industry. The licensed and supervised sectors of the sex industry have now been reorganised reasonably well and self-regulation within the industry is now beginning to take shape. The visible part of the sex industry would appear to be reasonably free of THB. The issue now is to combat THB in the non-regulated sectors and to encourage clients to switch to the sectors that have been reorganised. Clients can play an important role in recognising (possible victims of) THB and, for this reason, will be made aware of THB.

Where it appears that THB is occurring in other economic sectors (outside prostitution), additional measures will immediately be put in place. Any such measures would be in line with those geared towards the combating of illegal employment and 'facilitators', as laid down in the Policy Document on Illegal Aliens.

When seeking to prevent *domestic THB* (including the 'loverboy' phenomenon), the above section on the demand side of THB will be of equal importance. What is more, here too it will be essential to remove those conditions that may leave victims vulnerable to exploitation (e.g. addiction, poor education, a lack of integration and participation, etc.).

In addition to the above, there is a particular need for the provision of information to potential victims. Once victims find themselves caught in the trafficker's web, it is very difficult to extricate them from it. Often, these individuals do not even view themselves as victims (the 'Stockholm syndrome'). The Government refers to the Action Plan on the Regulation and Protection of the Prostitution Industry (Section 5, 'Loverboys') for the measures being taken in respect of the collection of information and the provision of information to potential victims, and the role that can be played in this by the Expertise Centre for Youth Prostitution to be set up (OBP, 5.1).

When seeking to prevent THB, whether it be cross-border or domestic THB, **information on the background** to the crime is essential. The backgrounds of victims, perpetrators and methods are essential to the achievement of proper information and prevention.

It is important to know which circumstances make certain individuals or groups particularly vulnerable to THB, where potential victims can be found and what their profiles are. In addition, it is equally important to know which methods, routes and contacts perpetrators avail themselves of. Section 5 will look in more depth at the importance of information for the investigation and prosecution of THB.

Studies into the backgrounds underlying the crime THB are useful, both for prevention and for investigation and prosecution. At an international level, numerous studies have been and are being conducted into THB. International studies in the field of migration are also relevant when seeking to combat THB. The results of these studies are also being utilised.

The Dutch National Rapporteur on THB conducts research into the Dutch situation and identifies trends and developments in THB. As yet, its report is limited to THB in relation to prostitution. However, over the course of the next several years, its sphere of activity will expand in accordance with the broad definition of THB in the new Article 273a of the Criminal Code. In the framework of this expansion of the penalisation of THB, the Minister of Justice has instructed the Scientific Documentation and Research Centre [*Wetenschappelijk Onderzoek- en Documentatiecentrum (WODC)*] to conduct an exploratory literature search into THB in other economic sectors<sup>22</sup>.

Information on traffickers' backgrounds and the methods used by them is also relevant in the context of perpetrator-oriented prevention. Suspects continually change their recruitment practices and methods. They take the age of their victims into account, move from one field of work to another, change the workplace where they put their victims to work and are increasingly less concerned by national borders. The latest development is the use of Internet for the recruitment of potential victims. In a study currently being conducted, the 'loverboy' profile is being developed in more detail. This will make it possible to gain a better insight into 'loverboys' (developmental) backgrounds and, as such, improve prevention for this group of victims.

The collection of systematised information on suspects and perpetrators is a responsibility that falls primarily upon the police and the judiciary, since they are able to draw upon criminal investigations and police files. Additional information is available from numerous parties. Thus, a way must be found of bringing together all of the information available in one central location in the Netherlands. This would promote the rapid and successful recognition of existing youth prostitution. The Action Plan on the Regulation and Protection of the Prostitution Industry indicates that an Expertise Centre for Youth Prostitution is being set up (OBP, 5.1). This centre may contribute to the achievement of the central availability of information and to ensuring that information material is collated and prepared for distribution.

In order to improve the quality of investigation and prosecution, systematised information on methods and profiles will, of course, also be embedded in the training offered to the police and the PPS. The 'loverboy' phenomenon is a theme to which explicit attention is paid during the THB module scheduled during the investigation training courses as part of new police training (OBP, 5.2).

**Opmerking [ETL2]:** Voetnoot 22 verwijst naar voetnoot 19, terwijl dit volgens ons voetnoot 20 moet zijn.

<sup>22</sup> See footnote 20.

However, this information must also be included in the training programmes intended for the other organisations involved (see Section 2.2. above, Action no. 6).

<b>No.</b>	<b>Action</b>	<b>Initiative</b>	<b>End date</b>
14	<p>Creation of a National Expertise Centre for Youth Prostitution (OBP, 5.1)</p> <p><i>Progress: TransAct will appoint an organiser whose remit will be to collect existing initiatives for combating youth prostitution and to publish recommendations on long-term support for them. TransAct will act in close consultation with the Dutch Youth Prostitution Platform, in which more than 10 national and local/regional organisations are represented. TransAct will also function as the national domestic violence support centre. In this way, the national support against domestic violence and (the possible precursor of) the Expertise Centre for Youth Prostitution will be brought together at one address, within one organisation. This will promote cohesion and prevent overlaps.</i></p>	Justice	1 January 2005

<b>No.</b>	<b>Action</b>	<b>Initiative</b>	<b>End date</b>
15	<p>Systematised information on 'loverboy' methods and profiles will be embedded in training offered to the police and the PPS and will be disseminated within the regional police forces (OBP, 5.2)</p> <p><i>Progress: The new THB module includes the 'loverboy' phenomenon. As such, this has become an integral part of police training. Via the prostitution/THB expertise group, knowledge on this phenomenon and the action taken against it is shared and disseminated within the regional police forces.</i></p>	Interior and Kingdom Relations	1 January 2005



## 4 Victims of THB

This Section will discuss the identification of (victims of) THB, the implementation of the B9 regulation, reception and victim support and the repatriation and reintegration of victims.

### 4.1 Identifying (victims of) THB

In the information being provided to the public, the message communicated will be that the exploitation and abuse of people (and of children in particular) cannot be tolerated. The impending broadening of the THB Article, subsequent to which THB will no longer solely be limited to the sex industry, will make it necessary to issue a message of this nature shortly after the entry into force of the amendment to the Code. The information communicated will point out that the Netherlands is changing its law in order to comply with international obligations and that this broadening of the definition was not primarily motivated by any actual problem in the Netherlands at the present time (NRM 3, 60). Information on THB in general, aimed at the detection of THB and of possible victims of THB, will primarily be directed at specific target groups that may come into contact with (victims of) THB. The various chain partners and intermediaries will be involved in this (for example, working with clients, employers and employees).

In this context, specific attention must be paid to the provision of targeted information to (potential) clients, both in relation to sexual services and for services in other economic sectors. They must be reminded of their responsibility to buy these services solely from the regulated sectors and even then to remain watchful. Clients in particular are able to detect signs of THB and the likelihood that a particular individual could be a victim of THB and inform the competent authorities. The information provided will point to existing possibilities in this respect, such as the anonymous 'M' telephone line (NRM 3, 61).

With the broadening of the definition of THB under criminal law in the new Article 273a of the Criminal Code, (administrative) enforcement in areas other than prostitution will also have to take into consideration possible signs and victims of THB. This means that organisations other than local authorities and the police will now also have to develop a mechanism for the detection of signs such as this and learn how to approach victims of THB (OCSE, III 2.5 and OBP 4.24). For example, (victim support) organisations that (may) come into contact with victims of THB must be able to recognise victims as such. This particularly applies for the minors among these victims (NRM 3, 22 and UNICEF, page 30). Collaboration with migrant organisations will also be important for the detection of THB. Within an international prevention project geared towards the improved identification of victims of THB, the Dutch Foundation against Trafficking in Women [*Stichting Tegen Vrouwenhandel (STV)*]<sup>23</sup> is working with Anti Slavery International to develop a toolkit and training courses for the detection of victims. With a view to the broadening of the legal definition of THB in the Criminal Code (Article 273a), it must also be possible to recognise victims in economic sectors other than the prostitution industry. In consultation with TransAct, amongst others, the STV is seeing whether a range of courses can be developed for institutions and social academies.

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<sup>23</sup> The Dutch Foundation against Trafficking in Women (STV) functions as an intermediary between police and victim support organisations and reception centres. This organisation ensures that victims that fall under the B9 regulation can be provided with shelter as soon as possible. In addition to the above, the STV promotes collaboration between the police and women's shelters with a view to the reception and protection of victims of trafficking in human beings. In addition, the STV's core activities are to support and promote regional trafficking-in-women networks, knowledge transfer, policy advice and international collaboration. This includes the intensification of its relationship with police forces, shelters and other organisations active in the field focusing on combating THB and the organisation of the STV Platform for the chain partners involved in the implementation of the B9 regulation. THE STV receives a subsidy from the Ministry of Justice for these activities (OBP 4.4).

As already indicated in Section 2.2., the PPS and investigative authorities are also preparing themselves, in mutual consultation, for the consequences for law enforcement of the impending broadening of what is considered to be punishable behaviour according to the definition of THB in the Criminal Code (NRM 3, 55). The THB problem has now become a standard part of general police training (including Alien Police departments). A separate THB module has also been developed for use in the training of police officers dealing with sex crime. For this training, one of the sources of information used is the list of signs pointing to THB. This list was developed by the PPS and added to by the police (for example, by qualifying the signs listed). At the SIOD too, the subject of THB and the new Article 273a of the Criminal Code in particular have become part of the training offered to detectives. In any event, the list of signals that point to THB will be distributed more broadly amongst organisations that may be able to detect THB.

No.	Action	Initiative	End date
16	Together with chain partners and relevant intermediaries, provide information on THB legislation and possible signals that point to THB.	Justice	1 May 2005

No.	Action	Initiative	End date
17	Provide specific, targeted information to (potential) clients on their responsibilities and on the detection and reporting of THB and victims.	Justice	1 May 2005

No.	Action	Initiative	End date
18	The Ministry of Health, Welfare and Sport will ask social care education providers to address the THB problem.	Health, Welfare and Sport	1 May 2005

No.	Action	Initiative	End date
19	Broadly distribute list of possible signs pointing to THB amongst organisations that may encounter (victims of) THB. Where possible, include THB as part of the training provided by these organisations.	Justice, Interior and Kingdom Relations, Social Affairs and Employment	1 May 2005

## 4.2 Implementing the B9 regulation

As promised by the Minister for Alien Affairs and Integration during the general parliamentary consultations on Prostitution and THB in November 2003, a working conference was held with the relevant organisations from the field on the possibility of improving implementation of the B9 regulation. The conference resulted in a number of actions for further elaboration, including information exchange between the organisations involved, the detection of problems in implementation, the provision of information to victims, support facilitating the reception of victims of THB, the creation of a file containing data on various organisations relevant for the assessment of applications for extended residence in the Netherlands or repatriation. The majority of these actions have now been initiated.

Structural measures will be put in place to prevent the non-application of the B9 regulation in practice. These measures will particularly concern the allowance of a period of reflection when considering whether or not to report THB. After all, if THB is to be combated, it is important that victims cooperate in the investigation and prosecution of THB (NRM 3, 11 and OCSE, V 8.1). It is also important that each of the organisations involved in the implementation of the B9 regulation notify its own employees and other chain partners of the way in which the tasks imposed on it in the framework of the B9 regulation are to be performed. This will benefit the uniform implementation of the regulation and increase clarity on its application (NRM 3, 13).

Attention is being given to the fact that, at a local level, an area of tension may exist between aliens supervision and application of the B9 regulation. With financial support from the Ministry of Justice

and Humanis, Bonded Labour in the Netherlands (BlinN) is currently conducting a study into the presence of victims of THB in detention centres for aliens. One of the questions being studied is whether the B9 regulation, in particular the period of reflection, *is* actually being offered to individuals. In the context of the National Police Project on Prostitution and Trafficking in Human Beings, continual emphasis is being placed on the importance of the proper application of the B9 regulation by the police during activities concerning the supervision of aliens.

In addition, the following agreements for the resolution of implementation problems were made during the two-day working conference on the B9 regulation. A central editor will be appointed to ensure that all information necessary for the implementation of the B9 regulation is made available and kept up-to-date via a website available specifically for this purpose. In addition, each of the chain partners will appoint a contact person within their organisations to deal with any problems submitted to them in terms of implementation of the B9 regulation. Problems that are encountered frequently or which prompt changes to policy will be placed on the agenda for the B9 platform (linked to the present STV platform). Added to the above, the chain partners will use their own communication bodies to request attention for the proper implementation of the regulation.

In accordance with each partner's individual contribution to implementation of the B9 regulation, all partners in the chain involved in the implementation of the B9 regulation will inform victims in as much detail and as promptly as possible of the rights and opportunities available to them under the B9 regulation and also keep them informed of the progress and completion of the procedure applicable. This applies not only to social security aspects, but also to aspects concerning criminal and aliens law (NRM 3, 14). The STV has produced an information brochure that is being distributed broadly via the networks, the police and other interested parties. This brochure is also available via the STV's website. Chain partners that find themselves confronted with a possible victim can always put this victim in touch with the STV for various types of information, including information about the procedure to be followed. Besides this, it has been agreed that the chain partners themselves will properly inform victims about the specific part of the procedure or provision for which they are responsible and that they realise that victims of THB require a specific approach. The media (campaigns on MTV) will also be used to bring the risks of THB to the attention of a broad public, while also emphasising the role played by the STV.

No.	Action	Initiative	End date
20	Study (conducted by BlinN) into the question of whether or not the B9 regulation has actually been offered to possible victims.	Alien Affairs and Integration	1 September 2005
21	Via a central editor, chain partners maintain a website, appoint contact persons within their own organisations and consult each other within the B9 platform (coordinated by THE STV).	Alien Affairs and Integration	1 September 2005
22	Ensure that victims are properly informed (by THE STV and chain partners).	Alien Affairs and Integration	ongoing

In consultation with the designated authorities, sufficient opportunities for concrete and proper legal assistance to victims in the above-mentioned areas will be provided (NRM 3, 15 and OCSE, III 4.5, V 4.1 and V 6.1-6.2). Where, in elaborate proceedings, entitlement to legal aid is insufficient, the legal assistance counsellor may submit an application for an additional amount under Article 13 of the Legal Aid (Fees) Decree [*Besluit vergoedingen rechtsbijstand*]. This is possible in single proceedings, but also in so-called connected proceedings. This application procedure may offer a solution in proceedings that are complex due to the relationship between aliens law and criminal law, which is often the case during THB cases. The parties involved in the provision of legal assistance will be reminded of this possibility again.

No.	Action	Initiative	End date
23	Inform legal assistance counsellors of the possibility of funding legal assistance.	Alien Affairs and Integration	1 January 2005

In order to monitor the proper implementation of the B9 regulation, it is recommended that one central point be appointed to identify implementation problems, advise on their resolution and, where appropriate, proceed to intervene. For the time being, the B9 platform, which is linked to the STV platform, will be used as the central point for this purpose, in which platform the central editor referred to above participates. For problems with regard to registration in the municipal personal records database [*Gemeentelijke Basisadministratie (GBA)*] the appropriate bodies are the Helpdesk for the Personal Records and Travel Documents Agency [*agentschap Basisadministratie, Persoonsgegevens en Reisdocumenten (BPR)*] and the consultancy for the Dutch association for civil affairs [*Nederlandse Vereniging Voor Burgerzaken (NVVB)*]. Given the above, it remains to be seen whether or not sufficient authority will be exerted in the opinion of the National Rapporteur (NRM 3, 16 and OCSE, V1.1).

No.	Action	Initiative	End date
24	Appointment of one central point to monitor implementation of the B9 regulation (in consultation with THE STV, BPR and NVVB)	Alien Affairs and Integration	1 January 2005

Steps are being taken to improve collaboration between the PPS and the IND. In the periodic PPS consultations held between the district THB portfolio holders, it was agreed that the portfolio holders would function as contact persons for the IND at the offices of the PPS. The IND may request information from criminal records in writing, referring to the new instruction regarding the provision of prosecution data for purposes beyond the scope of criminal procedure [*Aanwijzing verstrekking van strafvorderlijke gegevens voor buiten de strafrechtspleging gelegen doeleinden*] (NRM 3, 59).

**Opmerking [ETL3]:** Het woord 'verstrekking' ontbreekt in de brontekst.

No.	Action	Initiative	End date
25	Contact persons at the district PPS offices will ensure that the PPS keeps open its lines of communication with the IND.	Justice	ongoing

In response to recommendation no. 10 from the first NRM report (exclusion of the reflection period for the category of victims who have not yet worked in the Netherlands' prostitution industry), the Government stated that it was considering the feasibility of a specific procedure that would do justice to the exceptional situation of these victims (NRM 3, 58). As a result, the Immigration Law Circular [*Vreemdelingencirculaire*] will be modified in the sense that victims of THB encountered in the Netherlands will be given the opportunity to utilise the period of reflection, even where they have not yet been employed in the prostitution industry in the Netherlands (or where they have become the victims of other serious forms of exploitation after a certain period of time).

No.	Action	Initiative	End date
26	Modification of the Immigration Law Circular, Section B9 (by IND).	Alien Affairs and Integration	1 January 2005

In cases similar to those of present B9 victims, assistance and reception can equally be necessary during the suspect's investigation and prosecution (NRM 3, 10 and OCSE, III 6.1 and V 2.1). When broadening the B9 regulation to victims of all forms of THB, consideration is being given to the question of where, according to the nature of the THB in question, differentiation is needed in terms of the reception and help to be offered to victims, and how this differentiation can be accomplished. This also applies to the question of whether or not a victim will be permitted to work and the practical opportunities for this during his/her B9 residence status, as now agreed upon in an EU context, but not yet implemented in the current B9 regulation.

At this stage it is not possible to determine whether and to what extent similar cases against which prosecution is instituted will emerge. In a network context, the STV will consider the detection of other forms of THB and discuss opportunities for the reception of victims of other forms of

exploitation. In principle, shelter and care for the homeless are available for individuals who do not need to be placed in specific women's shelters. Shelter and care for the homeless form part of the networks in which the STV participates. In this context, the STV is only too willing to engage in knowledge transfer and the promotion of expertise, where necessary. Differentiation would appear to be appropriate in cases where supervision follows a traumatic experience and also depends on the nature of the services offered, including the work provided. The need for a residence permit in connection with access to facilities and the need for preparation for repatriation will not differ substantially from the present B9 regulation. For the time being, the intention is to continue to work within the existing structures and to consider whether there would appear to be any reason for their modification.

No.	Action	Initiative	End date
27	Modification of the WAV (Implementation) Decree	Social Affairs and Employment	1 January 2006

No.	Action	Initiative	End date
28	Prepare networks for the possibility of other types of victims of THB (via regional care networks STV)	Justice	1 May 2005

### 4.3 Reception and victim support

In general, female victims of THB are able to utilise the facilities offered by women's shelters. Reception has been decentralised to central municipalities. These central municipalities are responsible for ensuring that their reception facilities are appropriate for the backgrounds and problems of (potential) clients, including victims of trafficking in women.

Underage victims of 'loverboys' can approach youth care centres for help where child development problems and/or child rearing problems are the case. These victims (who may be minors) may sometimes also be placed in women's shelters in situations where they are temporarily unable to stay at home. For example, women's shelter *Vrouwenopvang Friesland* can accommodate girls from the age of 16 who have been the victims of 'loverboys'.

In the Government position on the interdepartmental policy study on shelter ("*De opvang verstop*"<sup>24</sup>), the Government announces a number of measures that are designed to improve the accessibility of women's shelters. This improvement will also benefit victims of women's shelters for whom alternative shelter is needed. The measures are as follows:

In gradual increments until 2007, an extra amount of €4 million will be earmarked for the expansion of capacity by approximately 200 places. This expansion is particularly to benefit the reception of women and any children they may have, who are subject to serious threats (potential victims of honour killings or victims of trafficking in women, for example (NRM 3, 28)).

No.	Action	Initiative	End date
29	The capacity of women's shelters will be increased	Health, Welfare and Sport	1 January 2008

The Federation of Shelters [*Federatie Opvang*] has been asked to formulate an action plan to improve the intake in and safety at women's reception centres. Financial support for the implementation of the "*Drempels weg*" plan will be provided by the State Secretary of Health, Welfare and Sport. Part of this plan includes the evaluation and modification of the Register of Available Places [*Meldpunt Open Plaatsen (MOP)*]. The object is to achieve the accurate and up-to-date registration of available places throughout the Netherlands, so that clients, including victims of THB, can be placed quickly (NRM 3, 28). A number of organisations that place clients already have access to this registration via the

<sup>24</sup> Parliamentary documents II, 2003-2004, 29325, no. 1.

Knowledge Network [*Kennisnet*] set up by the STV/Federation of Shelters. Of course, the preferred choice is for registration and placement to occur via the STV. The Federation of Shelters will take steps to ascertain whether and how the MOP can be made accessible to chain partners.

No.	Action	Initiative	End date
30	The Federation of Shelters will work on the improvement of the Register of Available Places (MOP).	Health, Welfare and Sport	1 January 2007

Another part of the “*Drempels weg*” plan is the reduction of safety risks for women offered shelter, amongst others. Steps will be taken to ascertain whether safehouses could play a role in the reception of women at serious risk, including some victims of trafficking in women (OBP 4, 3; also see Section 5.2.2).

No.	Action	Initiative	End date
31	The Federation of Shelters will take steps to ascertain whether and how safehouses can be used to improve safety (OBP 4, 3). <i>Status: the Federation of Shelters has produced an action plan entitled ‘Drempels weg’ on the improvement of the accessibility and safety of women’s shelters. A sub-project included in this action plan is a study into the possibility of introducing safehouses.</i>	Health, Welfare and Sport	1 January 2006

Since it would appear that foreign victims are also increasingly being forced into prostitution through ‘loverboy techniques’, it is important that victim support organisations consider this form of THB on a structural basis, also where foreign victims are involved. This may prevent situations where (some of) these victims leave reception centres. In some cases, the decision to leave a reception centre may be due to the feelings that a victim has for her trafficker, causing her to re-establish contact with him and, in some cases, even go back to him (NRM 3, 24).

Responsibility for the quality of victim support lies primarily with the victim support organisations themselves. This means that, where necessary, they must pay the necessary attention to ‘loverboy techniques’. The Ministry of Health, Welfare and Sport will support victim support organisations in this. A number of organisations subsidised by the Ministry of Health, Welfare and Sport (Rutger Nisso Groep, Pharos and the FIOM) are giving attention to the ‘loverboy’ phenomenon. For 2005, TransAct will receive a subsidy from the Ministry of Justice to ascertain whether an Expertise Centre for Youth Prostitution (including attention for the ‘loverboy’ phenomenon) is needed.

On 30 September 2004, the STV held a working conference in which discussions took place with reception facilities and victim support organisations on reception by category versus the integral reception (and any additional support) of victims of THB. The outcomes obtained during this conference were not always unequivocal. There are advantages and disadvantages to both reception by category and integral reception. The reception facilities and the central municipalities will now have to consider which solution will be the best in particular situations (NRM 3, 25 and OCSE, V4.1-4.4).

Structural attention must be given to the safety of women and AMAs (unaccompanied minor asylum seekers) in asylum centres. Phenomena such as recruitment for prostitution and the leaving of centres such as this for an unknown destination must be prevented and combated wherever possible, but recognised and recorded where it does occur (NRM 3, 19; OCSE, V 4.1-4.4 and V 10.1, UNICEF, page 29-3). A study into the safety of women and girls in asylum centres was completed in 2003. The following action points from the study were subsequently adopted: a training course for staff on the detection of situations of danger for women and girls, knowledge transfer as regards the subsequent steps possible to take, a protocol on responding to violence (including domestic violence and recruitment for prostitution). A mental and physical self-defence training course has also been developed, with the object of providing women and girls with a better understanding of their rights in the Netherlands, enabling them to protect themselves better. Attention is also paid to residents’ meetings, making it easier to discuss the problems experienced by residents.

At a national level, contacts have been established between the STV and the Central Agency for the Reception of Asylum Seekers [*Centraal Orgaan opvang Asielzoekers (COA)*]. THE STV's aim is to involve asylum centres as much as possible in the regional care networks and to invite them to attend meetings in the regions in question in order to be able to recognise signs of THB and offer proper help. To this end, the STV has recommended that asylum centres consult its website for up-to-date information. The COA and the STV will find out whether a poster can be developed for the asylum centres, in which attention will be asked for the dangers of recruitment for prostitution in the Netherlands. The policy on supervised AMAs, according to which AMAs are placed under the responsibility of family members, has now been abandoned (NRM 3, 20 and OCSE, V 10.1).

No.	Action	Initiative	End date
32	Increase asylum centre involvement in the networks.	Alien Affairs and Integration	1 May 2005

No.	Action	Initiative	End date
33	Find out whether a poster on the dangers of recruitment for prostitution can be developed for the asylum centres (by COA and STV).	Alien Affairs and Integration	1 May 2005

At the present time, reception and victim support are only provided for in the B9 regulation and, as such, are only available for victims who cooperate in the investigation and prosecution process, or are considering this. Thus, reception and victim support are not available for victims who do not cooperate in the investigation and prosecution process. Although a more or less formal assessment of victim status remains desirable in order to prevent potential misuse of regulations, there are victims about whose victim status there is little or no doubt, even where they do not have the courage to report or consider reporting THB. This applies, for example, to victims who are found by the police and score high on the list of THB signs developed by the PPS and used by the police.

The Government recognises that even without a report, it may be apparent from these victims' stories that grounds exist for the provision of care and reception and that information that is useful for the investigation and prosecution process may emerge from them. There is also a chance that these victims will (have the courage to) cooperate in the investigation and prosecution process once they have calmed down (NRM 3, 12 and OCSE, V 4.2, 8.2 and 9.1). Policy is currently being prepared that is intended to inform victims such as these of the possibility of applying for asylum, which applications will be dealt with accordingly. In this way it becomes possible to finance reception and victim support for these victims.

**Opmerking [ETL4]:** De brontekst is hier niet helemaal duidelijk.

The above does not necessitate the creation of a separate category of victim, since reception and victim support are already available during the period of reflection under the present B9 regulation. However, it is necessary to ensure that the grounds on which a victim's right to remain in the Netherlands applies are made clearer.

The consistent offering of a period of reflection remains a point for attention. During this period, attention must be given to the provision of proper information and to the question of whether the victim's safe repatriation is possible and whether his/her own authorities can extend protection to him/her. Where the victim believes that this is not the case, he/she may apply for a residence permit, at which stage it will be assessed whether or not grounds exist for asylum to be granted. A high score on the above-mentioned police indication list will be one of the factors involved in the assessment. Where this type of application is concerned, residence can only be granted where it has become very likely that the victim would have serious fears for her safety after repatriation, regardless of whether or not she reports THB. A victim in this situation could afterwards still change her mind and consider cooperating, but her right to remain in the Netherlands will then no longer depend on this. Victims whose background cannot be established in any great detail will only be granted a residence permit if they cooperate in the investigation and prosecution of the suspect.

No.	Action	Initiative	End date
34	Make it clear that applying for asylum is an option where repatriation would be dangerous and no B9 has been applied for by the victim.	Alien Affairs and Integration	1 May 2005

At the present time, consideration is being given to the usefulness of also granting residence to victims who do not report THB, but do otherwise wish to cooperate, where the PPS deems said residence necessary. The question is whether the extent to which the victim should fear reprisals is governed by the extent to which she cooperates. The question of whether continued residence may be necessary due to reprisals connected with the reporting of THB and the victim's appearance as a witness will only play a role after completion of the B9 procedure.

No.	Action	Initiative	End date
35	Consider whether it would be useful to also grant residence to victims who do not report THB, but do otherwise wish to cooperate, where the PPS deems said residence necessary	Alien Affairs and Integration	1 May 2005

Where possible, finance will be provided for the activities of non-government organisations responsible for reception, supervision and representing the interests of victims of THB (NRM 3, 21). The STV receives a subsidy for the reporting, registration and placement in reception facilities of victims of THB and for the maintenance of regional care networks in which the primary reception of victims occurs. In order to be able to reduce its own overheads, the STV will become a member of La Strada International. The STV encourages the regional care networks to take advantage of legally designated municipal funds available from the central municipalities. As of 1 January 2005, the Ministry of Justice will subsidise the various (above-mentioned) activities undertaken by the STV.

Furthermore, various ministries contribute financially, whether directly or indirectly, to the combating of THB. Via organisations such as the STV and BlinN, financial contributions are made towards projects focusing on the prevention of THB and on the provision of support to victims of THB. As regards child trafficking, the Ministry of Foreign Affairs makes a voluntary annual contribution of €28.5 million to UNICEF, which uses this contribution to finance the implementation of its Medium Term Strategic Plan, within which the protection of children (including children who are the victims of child trafficking) forms a key area. In addition, within the partnership programme with UNICEF an earmarked contribution of approximately €7 million will be made to the child protection programme for the period October 2001-31 December 2004. Child trafficking is closely linked to child labour. In the period 2001-2004, the Ministry of Foreign Affairs spent an amount of approximately €8 million, via ILO, on combating child labour. In 2004-2005, €12.5 million will be spent on the relationship between child labour and education.

In order to prevent a situation in which the opportunity for victims of THB to work during the B9 period (as recently agreed at EU level) merely exists on paper, serious efforts will be made to support victims in finding suitable work and to assist them in this work (NRM 3, 26 and OCSE, V 4.4). On the initiative of BlinN and with the cooperation of the Ministry of Justice and the Ministry of Social Affairs and Employment, a meeting will be held with local authorities on 15 December 2004 in order to discuss the possibilities in this respect. During this meeting, participants will discuss the change in policy enabling victims of THB to take up employment during a B9 procedure. The finding of suitable work and helping victims of THB into the labour market is a municipal responsibility.

No.	Action	Initiative	End date
36	In 2005, specific attention will be paid to updating local authorities, in order to encourage them to find suitable work for and assist victims of THB during the B9 procedure.	Social Affairs and Employment and Alien Affairs and Integration	1 January 2006



Domestic victims of THB who wish to leave prostitution face various obstacles when actually leaving prostitution. These obstacles can be very diverse. Sometimes, individuals have become accustomed to the style of life and the prostitution network, or victims have addiction problems. Other obstacles may be of a practical nature, such as debts or accommodation. The lack of relevant employment market qualifications may also play a role. During the debate on the Ministry of Justice's budget for 2004, a motion proposed by member of parliament Van der Staaij was passed. This motion requested that the Government "encourage the removal of obstacles that prevent prostitutes from actually breaking away from prostitution, for example by encouraging or facilitating programmes targeting those individuals wanting to leave the sector". The motion was directed at the Minister of Justice, who has, however, transferred implementation to colleagues whose involvement in this respect is greater given their area of policy: the Minister of Health, Welfare and Sport and the Minister of Social Affairs and Employment. In 2003, the Ministry of Health, Welfare and Sport granted a subsidy for a project aimed at the promotion of municipal support to prostitutes hoping to change their careers (OBP 2,3).

#### 4.4 Admission or repatriation

Although the provision of proper protection to victims within the Netherlands' national borders is a practical priority, the Dutch government will also ensure the achievement of a more far-reaching form of victim protection in cases qualifying for this type of protection.

To this end, efforts are being made to achieve cooperation across national borders (by making bilateral or multilateral agreements, for example). This is motivated by humanitarian reasons, but is also crucial if it is to be possible to encourage victims to come forward, escape from their predicament and tell their stories to victim support workers, but also, wherever possible, to the police and judiciary too. Although the latter is often not so much necessary from the point of view of prosecution, there are often practical reasons for it, creating a realistic chance of bringing the perpetrators to justice. Another aspect to consider here is the fact that without effective repression, perpetrators can continue undisturbed, which will not benefit prevention since they can continue to create new victims. Added to this is the fact that, under our legal system, the (legal and actual) confiscation of profits obtained from criminal activities is only possible after sentencing. In the fight against THB, where the perpetrator's only interest is to achieve profits, this approach is regarded as the most effective (NRM 3, 17).

No.	Action	Initiative	End date
37	Make agreements with countries of origin on the protection of victims of THB returning to their countries of origin.	Alien Affairs and Integration and Foreign Affairs	1 January 2006

Following completion of the B9 procedure, the victim may request that his/her stay be extended. Victims that are able to prove that they could be faced with reprisals should they be repatriated may be granted permanent residence status. If careful decisions are to be made and an improved division of the burden of proof achieved between victims and the government, it is essential that the compilation of documentation be improved. This would make it possible to obtain more information on victims. It must become possible to increase the extent to which criminal data and data relating to alien law are used in combination.

A number of agreements have now been made in the field of the proper compilation of documentation. These agreements make it possible to assess whether a victim's stay can be extended or whether he/she can responsibly be sent back to his/her country of origin (NRM 3, 18 and OCSE, V 7.1-7.5, V10.2-10.5). It is anticipated that, within the foreseeable future, the Ministry of Foreign Affairs will report on the situation as regards prostitution and THB in the most popular countries of origin and on protection possibilities available there. In order to facilitate the repatriation of victims of THB, the embassies in the most important countries of origin will also be provided with guidelines on financing projects in the field of THB, particularly projects geared towards prevention and reintegration (OBP 4,5).

The IND has now completed a case law analysis of the criteria applicable for the approval of applications. A working group has been appointed to consider guidelines to be formulated for the collection and exchange of information between various chain partners. A checklist is being developed for chain partners to guide them in the collection of relevant information, which will also result in a Protocol with the networks.

No.	Action	Initiative	End date
38	Strive to achieve proper compilation of documentation pertaining to the safety of the victim (for instance, thematic official country report, guidelines and checklist).	Alien Affairs and Integration	1 May 2005

It is important to know more about what happens to victims once they have been recognised and acknowledged as such. More specifically, a study will be conducted into the departure of victims from reception facilities and their reasons for doing so on the one hand, and their experiences once they have returned to their country of origin on the other (NRM 3, 29). Discussions are underway with the WODC and La Strada on the possibility of a study of this nature.

No.	Action	Initiative	End date
39	Study into the reasons for victims to leave reception facilities and into their experiences following repatriation	Alien Affairs and Integration	1 Sept. 2005

## 5 Investigating and prosecuting THB

### 5.1 Prioritisation in investigation and prosecution

The combating of THB is a national priority for both the police and the judiciary, just as it was before the lifting of the general ban on brothels in 2000. Given the fact that THB is one of the most serious crimes in our Criminal Code, this is only right. THB is a crime that is characterised by the violation of a victim's personal freedom and physical integrity and by the fact that it is often committed within a structured organisation. THB is a crime from which major financial advantage is achieved, and, in some cases, is apparently used to finance other organised criminal activities, for example those undertaken by terrorist groups. Added to this, THB is a so-called 'ongoing crime', since the victim is forced to generate money day after day.

As already indicated in the Action Plan on the Regulation and Protection of the Prostitution Industry, the combating of punishable forms of exploitation (involving minors, individuals not in the possession of a valid right of residence allowing them to work and individuals involved involuntarily) should be intensified<sup>25</sup>. This intensification of investigation and prosecution will occur particularly in the framework of the combating of major organised crime. For example, the efforts made by the police and the judiciary are geared more directly towards the active investigation and prosecution of cases of punishable forms of prostitution exploitation outside the legal industry. The change in direction towards an approach based on the combating of organised crime will have consequences for the organisation of investigation and prosecution activities. These consequences have now been identified by the police and the PPS and various measures have been put in place to strengthen the combating of THB. A number of these measures have already been included in the Action Plan on the Regulation and Protection of the Prostitution Industry. Given their importance for the combating of THB, various measures also feature in the present action plan.

In its long-term policy document entitled '*Perspective on 2006*', the PPS announced its reinforcement of the criminal enforcement of THB<sup>26</sup>. THB has now also been established as a key area for the National Criminal Investigation Department. In his policy response to the national threat analysis of very serious and organised crime (*Nationaal Dreigingsbeeld zware of georganiseerde criminaliteit*<sup>27</sup>), the Minister of Justice discussed in more detail its impact on prioritisation within the investigation of THB, amongst other things.

The policy response acknowledges that the flexible, differentiated and integral deployment of criminal, administrative, civil-law and preventive instruments is essential if organised crime is to be combated effectively (and, as such, THB too). What is more, the international dimension to the approach adopted must be strengthened further, since organised crime is becoming increasingly internationalised (see Section 5.5).

In consultation with the police and the PPS, and bearing in mind the international agenda, the Minister of Justice and the Minister of the Interior and Kingdom Relations have identified THB, *inter alia*, as a policy priority for investigation and prosecution for the years ahead. A strong stance must be taken towards the problem of THB.

As regards the criminal-law approach to organised crime, the PPS, in its role as competent authority, will ensure that targeted prioritisation is achieved. As indicated in the policy response to the national threat analysis, the seriousness of the threat involved will, naturally, be taken into consideration when deciding which specific cases to give priority to. The decision made will be based on a number of 'dimensions of damage': the extent of the direct financial loss for the victims/injured parties involved, the amount of violence used (when committing the crime, for example), the threat to the order of

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<sup>25</sup> OBP, Section 4.3.

<sup>26</sup> Parliamentary documents II, 2002-2003, non-file document just020976.

<sup>27</sup> Letter from the Minister of Justice and the Minister of the Interior and Kingdom Affairs, dated 22 November 2004.

various sectors within society and the level of general threat applicable (for example, for the State, democratic legal order and/or essential infrastructure). The Minister of Justice and the Minister of the Interior and Kingdom Relations have asked the PPS and the police to elaborate on these dimensions before 1 May 2005, making it possible for the PPS to prioritise on a specific case-by-case basis (NRM 3, 36 and UNICEF, page 29-3).

No.	Action	Initiative	End date
40	Elaborate on 'dimensions of damage' in order to facilitate prioritisation at case level by the PPS	Justice and Interior and Kingdom Relations	1 May 2005

As regards the figures on the investigation and prosecution of THB, a positive trend is evident. The number of studies conducted and the number of cases dealt with by the PPS have increased annually since 2000 (when the general ban on brothels was lifted); the number of summonses issued has increased since 2000; the number of dismissals has remained stable (and even decreases in 2004); the number of sentences has been increasing since 2000; the number of prison sentences imposed is increasing, as is the total number of punishments imposed since 2000.

However, it should not be concluded that priority is actually being given to the combating of THB in investigation and prosecution practice solely on the basis of the number of investigations conducted by the police, or on the number of THB cases that the PPS deals with each year, but also on the strength of various additional measures put in place by the police and the PPS to reinforce the combating of THB (NRM 3, 42).

The further improvement of the approach taken when combating THB is being sought in the strengthening of the structure in which investigation and prosecution take place, amongst other things. These measures, which are directed at the structure in which the investigation and prosecution of THB occurs, may be less visible in terms of the number of THB cases, but do directly benefit the combating of THB. By combating THB as very serious, organised cross-border crime, other expertise besides that of the vice squad becomes available, such as financial investigation and confiscation, international collaboration in Joint Investigation Teams, etc. In this way, it becomes easier to target the criminal structures underlying THB. The section below will discuss the measures put in place by the police and the PPS in order to strengthen the structure in which the investigation and prosecution of THB takes place.

## 5.2 Investigating THB

### 5.2.1 Investigation organisation

As already indicated above, the combating of THB under criminal law is receiving far more attention as part of action being taken to combat organised crime. The policy response to the national threat analysis states that the regional criminal investigation teams, the supraregional criminal investigation teams, the National Criminal Investigation Department, the Royal Military Constabulary [*Koninklijke Marchaussee (KMar)*] and (certainly given the broadening of THB's definition to include other economic sectors) the special investigation services each have their own role to play in an investigation. Which of these is to do what will depend on the specific task in hand and on the level at which THB manifests itself: regional, supraregional or (inter)national.

On 1 January 2004, the National Criminal Investigation Department [*dienst Nationale Recherche*] was created within the National Police Services Agency [*Korps Landelijke Politie Diensten (KLPD)*]. As such, the Netherlands now has an organisation that is able to combat (inter)national forms of THB better than would previously have been possible. The lines of authority are shorter, management is uniform and an integral approach is adopted towards organised crime. The Department's responsibilities include conducting investigations within the key areas identified (THB, for example), processing complex international legal assistance applications, providing capacity for international

collaboration (for a joint investigation team, for example) and performing a national expertise function in the key areas, one of which is THB.

In addition to the National Criminal Investigation Department, six supraregional criminal investigation teams (BRTs) have also been operational since 1 January 2004. These teams focus on forms of crime that manifest themselves in a number of regions and which are not eligible for assistance from either a specific region or the National Criminal Investigation Department.

However, regional police forces in particular play an important role in the combating of THB, since THB manifests itself at a local level and the information obtained at this level (from supervising the prostitution industry, for example) is crucial for the investigation of THB at a regional, supraregional and national level.

In the framework of the National Police Project on Prostitution and Trafficking in Human Beings, a number of objectives have been formulated for the combating of THB. For the time being, this approach will focus on excesses in the prostitution industry<sup>28</sup>. The police have set out a 'desired situation', a situation in which each regional force deploys task-related *capacity*, which complies with the quality requirements stipulated; in which each regional force has an *information structure* that is such that internal and external antennae are put in place to pick up signals of clandestine prostitution and THB; in which each regional force has a full *description of the investigation process* **and** in which the National Police Project on Prostitution and Trafficking in Human Beings has been properly concluded at the end of 2004 by *embedding it within the existing structures* of the Dutch police, thus guaranteeing the structural combating of THB by the Dutch police.

In line with the objectives formulated by the police, the measures below have been incorporated into the Action Plan on the Regulation and Protection of the Prostitution Industry and are now being implemented by the police. These measures (which are explained in more detail in the Police Monitor on Prostitution and Trafficking in Human Beings 2003 [*Korpsmonitor prostitutie/menshandel 2003*]) have been adopted by the police councils (Regional Police Force Managers Consultation [*Korpsbeheerdersberaad*], the investigation board [*Board Opsporing*] of the Council of the Chiefs of Police [*Raad van Hoofdcommissarissen*] and the PPS/police council). The Police Monitor 2004 is expected to show the extent to which the measures and objectives formulated have been achieved. This Police Monitor will be available in February 2005 and will be taken into consideration in the second evaluation of the lifting of the general ban on brothels in 2005. The Ministry of the Interior and Kingdom Relations and the Ministry of Justice will monitor the progress being made and, where necessary, provide support.

No.	Action	Initiative	End date
41	Regular consultation occurs between the THB contact persons from the police forces (in the THB expert group). Expertise is shared and the combating of THB discussed (OBP, 4.12). <i>Progress: these consultations are held at least four times per year</i>	Interior and Kingdom Relations	ongoing

No.	Action	Initiative	End date
42	Within the police, specific training will be provided (as of October 2004) for the investigation of THB and the approach adopted to victims of THB, with particular attention for children (OBP, 4.13) <i>Progress: The THB/prostitution training module has now been introduced.</i>	Justice	ongoing

No.	Action	Initiative	End date
43	The police will maintain a registration system (IKPS), in which both (potential) victims of THB and the traffickers themselves are registered, thereby improving information exchange between police	Interior and Kingdom Relations	ongoing

<sup>28</sup> 'Police Monitor on Prostitution and Trafficking in Human Beings 2003; the monitor in perspective,' p. 3. Appendix to Parliamentary documents II, 2003-2004, Just040618.

	forces (OBP, 4.14) <i>Progress: The IKPS is continually updated with information on (potential) victims and all related subjects and objects (subject to strict guidelines). At the moment, in anticipation of the introduction of the Police Suite Investigation (PSO) – the system used is a stand-alone system. After introduction of the PSO, the IKPS will become a module within PSO.</i>		
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No.	Action	Initiative	End date
44	The proposals from the Project on Prostitution and Trafficking in Human Beings will be implemented by all police forces (OBP, 4.15). <i>Progress: the Police Monitor 2004 will again identify the progress made by police forces in implementing the proposals from the National Police Project on Prostitution and Trafficking in Human Beings. The Police Monitor 2004 will be available in February 2005.</i>	Interior and Kingdom Relations	1 January 2005

No.	Action	Initiative	End date
45	Officer training is updated through the newly developed training courses 'MDOM (documents)' [ <i>MDOM (documenten)</i> ] and 'prostitution supervision' [ <i>Prostitutiecontrole</i> ]. These training courses will be delivered by police experts (OBP, 4.16). <i>Progress: police training has now been updated. This module has now become part of the new police training programme</i>	Interior and Kingdom Relations	1 January 2005

No.	Action	Initiative	End date
46	A THB module will be introduced to criminal investigation training offered as part of the new police training programme (OBP, 4.17). <i>Progress: this module has now been introduced.</i>	Interior and Kingdom Relations	1 January 2005

No.	Action	Initiative	End date
47	Developments in the country will be monitored closely, experiences will be exchanged, (improvement) proposals will be developed and presented to the police forces, government and the judiciary (OBP, 4.18). <i>Progress: at the present time, the Police Monitor THB 2004 is being conducted, as part of which developments occurring in the country are followed and (improvement) proposals are developed and presented to the police forces, government and the judiciary. The Police Monitor 2004 will be available in February 2005.</i>	Interior and Kingdom Relations	1 January 2005

No.	Action	Initiative	End date
48	In the framework of (international) THB, consideration will be given to the Dutch position in comparison with that of other countries (OBP, 4.19). <i>Progress: ongoing consideration is being given to the combating of THB in an international context and the position of the Netherlands.</i>	Interior and Kingdom Relations/ Justice	ongoing

No.	Action	Initiative	End date
49	THB investigations will be initiated and will be conducted through expert checks and intensive information collecting, analysis, information exchange and the detection of (potential) victims and suspects of THB (OBP, 4.20). <i>Progress: at the current time, the Police Monitor THB 2004 is being conducted, as part of which developments occurring in the country are followed and (improvement) proposals are developed and presented to the police forces, government and the judiciary. The Police Monitor 2004 will be available in February 2005.</i>	Interior and Kingdom Relations/ Justice	1 January 2005

No.	Action	Initiative	End date
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50	Given the expected interweaving of the human smuggling articles and the new THB articles, the allocation of human smuggling investigations will be reviewed (role played by KMar/police) (OBP, 4.22). <i>Progress: political decision-making by the ministries involved in the KMar is still to take place. Following decision-making, an amendment to the Police Act 1993 [Politiewet 1993] will be prepared. Postponed until 1 May 2005.</i>	Justice	1 May 2005
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No.	Action	Initiative	End date
51	Due to the renewal (broadening) of the THB article, consideration will again be given to the conducting of investigations on THB outside the prostitution sector, and special investigation services, such as the SIOD/ECD, the Tax and Customs Administration, etc. will also be involved (OBP, 4.23) <i>Progress: an exploratory meeting has been held with the SIOD. The role to be played by special investigating officers (BOAs) as regards the detection and investigation of slavery-like exploitation is not yet clear. Consultations are currently underway on this subject. Postponed until 1 May 2005.</i>	Justice/Social Affairs and Employment	1 May 2005

No.	Action	Initiative	End date
52	The regular consultation group of local police force project leaders, whose meetings took place under the project until the end of 2003, is being set up as an expertise group on prostitution and THB. The chairman of this group is a member of the policy advisory group on criminal networks, organised by the investigation board within the Council of the Chiefs of Police (OBP, 4.24). <i>Progress: at the current time, the KLPD is considering how to embed the expertise group within the organisation. Postponed until 1 May 2005</i>	Interior and Kingdom Relations	1 May 2005

### 5.2.2 Intelligence

To be able to start an investigation of THB (regardless of the economic sector involved or the organisation to conduct the investigation), a certain amount of usable intelligence will be needed. This information may originate from the victim of THB and/or from other sources.

The policy response to the national threat analysis indicates that an 'intelligence agenda' will be created in order to make it possible to gain more intelligence on the nature, extent and/or seriousness of organised crime. The agenda will be used to record the intelligence collected, as well as the time when and the subject on which what intelligence is collected (at an operational, tactical and strategic level). A more substantive relationship must be achieved between national and regional levels, the special investigation services and the KMar, and between crime analyses and investigations. Besides the National Crime Investigation Agency [*dienst Nationale Recherche Informatie (dNRI)*], the PPS also plays a role here. The Minister of Justice and the Minister of Interior Affairs and Kingdom Relations have asked the police and the PPS to put forward a joint proposal for a long-term intelligence agenda. The policy response also recognises that a qualitative improvement in intelligence gathering and analysis is necessary in respect of the investigation and prosecution of organised crime. Efforts are currently being made to modify information systems in the framework of the implementation of Specifications 2001-2005 [*Bestek 2001-2005*], formulated by the ICT Police Management Board [*Regieraad ICT Politie*] in relation to the innovation of information management<sup>29</sup>.

In order to obtain intelligence from *victims* for the investigation of THB, it is important to increase the willingness of victims and witnesses to report these crimes. Anonymity, protection and the gaining of

<sup>29</sup> Parliamentary documents II, 26 345, No. 62.

the victim's trust play an important role, as do the prospects that can be offered to a victim of THB if he/she cooperates in a trafficker's investigation and prosecution. A motion proposed by Griffith, a member of parliament, requested a number of things of the Government. For example, it requested that the Government ascertain which additional measures could be taken for the special category of (illegal) prostitutes that report trafficking in women and find themselves the subject of threats for doing so<sup>30</sup>. In its Action Plan on the Regulation and Protection of the Prostitution Industry<sup>31</sup>, the Government responded by pointing out that the Minister of Justice informed the Lower House of the (im)possibilities of anonymous reports and witnesses with limited anonymity at the end of 2003<sup>32</sup>. The Minister of Justice also indicated that sufficient possibilities exist for victims to choose domicile, to testify as witnesses with limited anonymity, or to be granted the status of threatened witness, but that these possibilities offer little solace in THB cases since it is always easy to trace a report or statement back to the victim or witness in question.

As regards the willingness of victims to report THB, it is important that victims be *confident* that every effort will be made to ensure the success of the criminal case and the conviction of the perpetrator. Victims must be informed fully of the risks involved when reporting THB and of the possibilities, facilities and services available (OBP, 4.1).

A number of police regions have created dedicated prostitution/THB teams (in order to win the trust of individuals employed in the sex industry, amongst other reasons). As a result, a point of contact is available for individuals and organisations wishing to provide information on prostitution and/or report signs of THB or victims of THB. These teams maintain intensive contacts with prostitutes and proprietors and obtain intelligence that contributes to the investigation and prosecution of criminal offences such as THB (see the IGO concept below). These dedicated teams also lower the threshold for prostitute contact with the police, making it easier for prostitutes to raise problems with the police, after which they can, where necessary, be referred on to other (victim support) organisations.

If proper *protection* can be offered, this will increase the willingness of victims to report THB. As stated in the Action Plan on the Regulation and Protection of the Prostitution Industry, two members of parliament, i.e. De Pater (CDA) and Hirsi Ali (VVD), introduced a motion in the general parliamentary consultation of 7 April 2004 on tackling domestic violence. The motion specifically called for the development of additional protection options for victims of domestic violence<sup>33</sup>. The specific options mentioned in the motion are shelter and the creation of a new identity. On 31 March 2004, the Lower House carried a motion from Mrs. Hirsi Ali, in which she requested a protection plan for girls and women from ethnic backgrounds<sup>34</sup>. In response to these motions, the Minister of Justice indicated that absolute safety cannot be offered and that there is a risk of illusory safety. Actual protection should be achieved through other, mutually reinforcing, measures, such as close collaboration between the police and women's shelters and the introduction of safehouses<sup>35</sup>. The Government position on the interdepartmental policy study on the provision of shelter announced a number of safehouse pilots (also see Section 4.3)<sup>36</sup>.

*Offering victims prospects for the future* (subsequent to criminal proceedings) could perhaps increase the willingness of THB victims to report offences. For Dutch victims, this can be achieved by offering the prospect of proper reception and victim support and by offering them the opportunity to leave prostitution (see Section 4.3).

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<sup>30</sup> Motion Griffith et al., Parliamentary documents II, 2003-2004, 28 638, no. 5.

<sup>31</sup> OBP, Section 4.2

<sup>32</sup> Answer from the Minister of Justice and the Minister of the Interior and Kingdom Relations to questions from member of parliament Van Heemst, submitted on 12 December 2003 (Parliamentary documents II, 2003-2004, appendix 845), answer to questions from members of parliament Griffith and Örgü (Parliamentary documents II, 2003-2004, appendix no. 688) and in a letter from the Minister of Justice dated 7 May 2004 in respect of the motion tabled by Van der Laan et al. (Parliamentary documents II, 2003-2004, 29 200 VI and 29 200 VII, no. 75).

<sup>33</sup> Parliamentary documents 2003-2004, 28 345, no. 14.

<sup>34</sup> Parliamentary documents 2003-2004, 29 203 no. 5.

<sup>35</sup> Letter from the Minister of Justice, dated 21 April 2004, Parliamentary documents 2003-2004, 28 245, no. 19.

<sup>36</sup> Parliamentary documents 2003-2004, 29 325, no. 1



In principle, foreign victims of THB are only granted a temporary right to remain in the Netherlands, the duration of which is linked to the proceedings instituted against the suspect (the so-called B9 regulation). As such, their prospects for the future are primarily focused on their return to their country of origin. In this context, the offering of prospects entails not only reception and proper information on the rights of the victim, but also the creation of opportunities for education, preparation for entering the employment-seeking arena, and for finding work, making it possible for individuals to achieve economic independence. The existing ban preventing this group from seeking and being in gainful employment will be lifted (see Section 4.3).

Bearing in mind the importance of the willingness of victims to report offences, the police are giving their attention to the problems frequently experienced by victims of THB when reporting offences (or attempting to do so). Under the present procedure, any victim of THB that presents him/herself to the police must be given the opportunity to file a report in as much detail and with as little delay as possible. This is also the starting point underlying the instructions in relation to THB [*Aanwijzing Mensenhandel*] (OBP, 4.1) issued by PPS. For this reason, the new police training module (criminal investigation department and aliens department) includes a component focusing on the ‘intake interview’ (NRM 3, 46 and OCSE, III 4.1). In order to further improve the quality of the intake (and the training module in question), the various organisations that come into contact with victims of THB will identify the problems experienced when a victim wishes to report an offence.

No.	Action	Initiative	End date
53	Identify problems experienced when reporting an offence.	Interior and Kingdom Relations and Justice	1 May 2005

Besides intelligence from the victim, intelligence from *other sources* is also relevant. Investigation and prosecution should not rely (entirely) on reports, but must also actively occur on the basis of intelligence gathered.

To this end, the principles of the so-called intelligence-led investigation (the ‘IGO concept’) are being introduced to the criminal investigation organisation. The crime THB will be incorporated into this concept in each region. The PPS (the public prosecutor conducting the criminal investigation) will emphasise the intelligence-led aspect by, at an early stage, instructing the criminal investigation department to collect intelligence. One of the products given priority by the police in this framework is the delivery of an intelligence protocol, setting out which intelligence the police are to make available to the PPS and at which stage, in order to enable the PPS to exercise its authority over an investigation. Within the IGO concept, it is essential that intelligence be obtained from a wide number of sources (public sources of information, the Central Intelligence Unit [*Centrale Inlichtingen Eenheid (CIE)*], the Chamber of Commerce, community police officers, etc.). Both the police and the judiciary are investing in the intelligence-led investigation of THB. To this end, measures are being taken to achieve the introduction of the Police Suite Investigation (PSO), the future collection of ICT facilities in the field of investigation (OBP, 4.9).

If application of the IGO concept is to be successful, it is vital that relevant intelligence possessed by other organisations be made available for (pre-)investigation and that, wherever possible, this intelligence be ‘stackable’ (for instance, systems and definitions that are compatible). In many cases, this concerns intelligence (i.e. investigation information) obtained from organisational records, but also intelligence obtained through ‘hearsay’. By registering and ‘stacking’ intelligence such as this, it has proved possible, in a number specific THB cases, to identify and arrest suspects without the need for victims to report the offences in question (IGO concept). When, subsequently, a victim approaches the police and the police are able to indicate that they already have a considerable amount of intelligence on the offence in question, the victim’s confidence in a successful investigation and prosecution may be such that he/she may perhaps be more inclined to report the offence in question (OBP, 4.2).

No.	Action	Initiative	End date
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54	The police and the judiciary are investing in the intelligence-led investigation of THB (the IGO concept). For example, to this end, measures are being taken to achieve the introduction of the Police Suite Investigation (PSO), the future collection of ICT facilities in the field of investigation. The staged introduction of PSO will commence in 2004 (OBP, 4.9) <i>Status: during a meeting of the ICT Police Management Board on 15 November 2004, it was observed that construction will not have been completed by 1 January. The period within which the construction of PSO can be completed is currently being considered.</i>	Interior and Kingdom Relations and Justice	1 May 2005
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No.	Action	Initiative	End date
55	The way in which dedicated teams work with partners and maintain contact with individuals employed in prostitution will be described and circulated amongst regional police forces as 'best practice' (OBP, 4.2) <i>Status: the Police Monitor 2004 is now being conducted. In it, the various police forces are being asked for the results of administrative inspections in the prostitution sector. The Monitor also discusses the way in which results can be improved and refers to the approach adopted and results achieved by police forces with dedicated teams.</i>	Interior and Kingdom Relations	1 May 2005

Intelligence obtained from supervision of aliens is indispensable for the investigation of THB. In the Policy Document on Illegal Aliens<sup>37</sup> sent to the Lower House by the Minister for Alien Affairs at the beginning of 2004, a number of additional measures were set out in relation to alien supervision in order to promote the investigation and prosecution of THB. In principle, the combating of THB and the approach taken towards illegality are two independent areas of policy. These two areas of policy have overlaps, and measures in one of these areas of policy may reinforce measures in the other area. Given the importance of witness statements and reports filed by victims for the investigation and prosecution of THB, account will be taken, in the proposed intensification of supervision of illegal aliens (for example, during action aimed at their deportation), of the fact that illegal aliens may also be victims of THB (OBP, 4.6, UNICEF, page 29-4.).

No.	Action	Initiative	End date
56	Police plans for actions to be undertaken in the framework of aliens supervision will always state that possible victims of THB will be given the opportunity to report this offence. This point forms part of the quality assurance programme developed in the context of the policing of aliens, and will be elaborated on in the most relevant sub-projects (OBP, 4.6) <i>Status: in September 2004, the Chair of the Board of Procurators General sent a letter to the district PPS offices, in which he indicated the measures taken in the framework of the Policy Document on Illegal Aliens.</i>	Alien Affairs and Integration and Interior and Kingdom Relations	1 January 2005

Given its expertise in this area, the Aliens Police Support Service [*politiële vreemdelingen zorg*] will be involved wherever possible during THB investigations and prosecutions. In the framework of the monitoring of aliens by the police, active attention is being given to recognising signs of THB. The Aliens Police makes this intelligence available for THB investigations. Added to this, the expertise possessed by the Aliens Police is also called upon during criminal investigations. Within the procedures agreed upon in this respect, the above will be laid down in further detail in 2004, as part of the 'intensification of the operational supervision of aliens' pursuant to the National Framework of the Dutch Police [*Landelijk Kader Nederlandse Politie*]. The police will be allowed immediate access to any systems in the aliens chain that are relevant to an investigation (for example, the Basic Facility for Aliens (BVV) [*Basisvoorziening Vreemdelingen (BVV)*]) (OBP, 4.8 and 4.10).

<sup>37</sup> Parliamentary documents II, 2003–2004, 29 537, no. 1

No.	Action	Initiative	End date
57	<p>Immediate access to information from aliens supervision will be secured for criminal investigation teams, for example by allowing the police immediate access to any systems in the aliens chain that are relevant to an investigation (such as the BVV). By 1 October 2004, measures will have been taken to ensure that the police have access to relevant systems in the aliens chain (OBP, 4.8).</p> <p><i>Progress: the Basic Facility for Aliens (BVV) includes a referrals register [Verwijzingenregister]. Chain partners can use this register to record relevant incidents in their process as a referral. With effect from the end of November 2004, the referrals in question will be supplied to the BVV, enabling the police to gain access to this information <u>in principle</u> as of this time. In practice, this process may take longer, since the modifications necessary to the police systems involved have not yet been completed. It is not yet known when police systems will have been modified.</i></p>	Alien Affairs and Integration	1 October 2005

No.	Action	Initiative	End date
58	<p>In the framework of police supervision of aliens, active attention is being given to recognising signs of THB. The aliens police will make this information available for THB investigations. Added to this, the expertise possessed by the aliens police is being used in criminal investigations. Within the procedures agreed upon in this respect, the above is being arranged in further detail in 2004, as part of the 'intensification of the operational supervision of aliens' under the National Framework of the Dutch Police (OBP, 4.10).</p> <p><i>Progress: the contribution of information and expertise in the area of supervision of aliens is being secured through the conclusion of regional covenants on the basis of the National Framework of the Dutch Police with a view to intensification of aliens supervision. The object is to achieve the signing of the covenants with the 26 police forces by January 2005.</i></p>	Alien Affairs and Integration and Interior and Kingdom Relations	1 January 2005

When investigating THB, it is important that the police be able to draw upon intelligence available from administrative regulators, the Tax and Customs Administration, the UWVs (the bodies implementing employee insurance schemes), the Centre for Reporting Unusual Transactions [Meldpunt Ongebruikelijke Transacties (MOT)], BLOM (National Public Prosecutor for MOT cases) and the BIBOB Office (which was set up under the Promotion of Integrity Reviews by the Public Administration Act (Wet BIBOB) (see the IGO concept above). With each of these organisations, the police will discuss the way in which intelligence can be obtained for use in the (pre)investigation of THB. Where necessary, support will be offered from the relevant ministries (OBP, 4.11 and 4.23).

Individuals and organisations in the victim's environment may also provide intelligence that could lead to a suspect and to the commencement of an investigation. In a number of cases, it has now been possible to start an investigation without the victim in question wanting or daring to report an offence, and for which use was made of the concept of Intelligence-led Investigation when collecting (incriminating) intelligence on (a) THB suspect(s) (NRM 3, 44). As already observed above, a number of police regions operate a system of dedicated teams working with partners that are able to provide them with intelligence on prostitution, evidence of THB or help them identify victims. In order to gain intelligence from prostitutes and proprietors, the dedicated teams maintain intensive contact with them.

The information gained by victim support organisations from their contact with victims of THB can be relevant to investigation and prosecution. Efforts are being made to achieve ways to make the information that welfare workers have on THB or (possible) suspects of THB available to the police without jeopardising the 'low threshold' accessibility of these organisations for their clients, or the confidential relationship that workers have or should have with them (NRM 3, 23). A police working

group is developing guidelines on information exchange in this context. When welfare workers are more aware of agreements pertaining to the confidentiality of their information, they will be more inclined to allow access to this information. A checklist to be developed by the STV may support organisations in the above. In addition, the STV, amongst other organisations, will ensure that it properly explains the importance and practicalities of confidentiality.

No.	Action	Initiative	End date
59	Steps are being taken to establish how and to what extent information from support agencies can be made available to the police during their investigation and prosecution of THB, after which guidelines on information exchange will be formulated.	Interior and Kingdom Relations and Justice	1 May 2005

Steps are also being taken to make employers, proprietors and clients aware of signs of THB and of its status as a punishable offence. The above individuals and organisations are also being made aware of the possibility of reporting criminal offences anonymously via Report Crime Anonymously [*Meld Misdad Anoniem (MMA)*] (OBP, 4.7). These actions primarily target the sex industry. Employers, proprietors and clients are important sources of intelligence. They may come into direct contact with victims of THB in the non-legalised sectors of prostitution and, as such, may have valuable information on THB. This is one of the reasons why the Government is not a proponent of client punishability. After all, if clients were penalised, they would be less inclined to provide the police with any information they might have.

Since intelligence on domestic THB would seem to indicate that some traffickers wait until their victims turn 18 before putting them to work as quickly as possible in the legalised prostitution industry, the police (and support agencies) are giving special attention to the just-18 group in the prostitution industry (NRM 3, 45). In THB cases, steps are always taken to establish the extent to which the suspect was already performing preparatory acts while the victim was still a minor.

In general, the dedicated police prostitution/THB teams referred to above recognise many of the prostitutes working in the industry. New prostitutes are certain to be targeted and questioned by the team. Since it is clear that young women who are under the influence of a ‘loverboy’ do not always see themselves as victims, they are unlikely to seek help in practice. This clearly suggests that any attention given should focus on prevention and the provision of information to potential victims.

In the debate held on the ‘loverboy’ phenomenon on 28 April 2004, the Minister of Justice promised, in consultation with the Minister of the Interior and Kingdom Relations, to indicate the extent to which manpower is being made available within the police for combating the ‘loverboy’ phenomenon. As already indicated above, the objective set by the police is for each regional force to use task-related capacity to combat THB (which includes the ‘loverboy’ phenomenon), which capacity satisfies the quality requirements applicable. Although it is not possible to indicate exactly how much manpower is being deployed specifically to tackle the ‘loverboy’ phenomenon, it is evident that police forces are giving increasing attention to the specific problems occurring in respect of ‘loverboys’. Naturally, the police are dependent in this on reports filed and information received from chain partners (Government, the PPS, care sector, support agencies, reception, etc.) amongst others.

### 5.2.3 The role of other government bodies

The previous section discussed in detail the various ‘sources’ of intelligence. It is clear that when investigating THB, the police are partly dependent on other individuals and organisations for relevant intelligence (i.e. investigation information). This section will discuss the reliance of the successful investigation and prosecution of THB on activities undertaken by other government bodies as part of their own responsibilities and powers.

As stated above (in Section 2.1), the combating of THB under criminal law should not be viewed as contrary to a humanitarian, victim or human rights approach. Effective measures using repression prevent perpetrators from continuing their activities uninterrupted and, in this way, also prevent them

from creating new victims, which in addition aids the prevention of further THB (NRM 3, 17 and 31 and OCSE, V 3.4-3.5). In turn, proper prevention, and the provision of proper reception for victims, can contribute to increased willingness and an increased ability on the part of victims and those around them to provide information relevant to the investigation and prosecution of THB. Government organisations should be aware of this mutual dependence, as should non-government organisations that contribute to the combating of THB. Prevention and repression are not opposing activities, but activities that must and can reinforce each other.

The police have introduced the 'Prevention' concept<sup>38</sup>. This approach presumes that barriers can be created to prevent crime by making intelligent use of existing investigation resources, by reminding others of their responsibilities (detection and advice) and by actual crime prevention. This additional police task identifies the way criminal processes work and how and by which organisations barriers can be raised to rule out criminal activities. This requires the involvement of parties other than the police, including central and local authorities. On the basis of administrative advice from the police (a report on experiences gained during an investigation), the Government's job is to take the reins and remind the partners involved of the importance of their individual contributions. For a further explanation of the Prevention concept, the Government refers to the letter from the Minister of Justice and the Minister of the Interior and Kingdom Affairs dated 25 May 2004<sup>39</sup>.

The Government acknowledges that, although the broadening of the definition of THB will reveal exploitation in other economic sectors (outside the sex industry) that are eligible for investigation and prosecution, the excesses eligible for investigation and prosecution on the basis of the new THB Article (Article 273a of the Criminal Code) will primarily be those involving the sex industry. As such, the lifting of the general ban on brothels and the corresponding introduction of a prostitution policy (under municipal responsibility and therefore implemented at a local level) are crucial for the investigation of THB (NRM 3, 37).

By exerting administrative enforcement in the prostitution industry, *municipalities* are establishing a basis for the effective combating of THB under criminal law. Administrative and criminal-law enforcement are complementary and must reinforce each other. Administrative enforcement in the legalised sectors of prostitution must be applied strictly and adequately, not only because traffickers will continue to look for ways to gain access to the legal, regulated sector of the prostitution industry (as well), but also because administrative supervision provides the police with crucial intelligence. This might be intelligence on the prostitution industry in general, but also (investigation) intelligence on abuses in the regulated and non-regulated sectors of the sex industry in particular (NRM 3, 36 and 63, OBP, 1.3).

The lifting of the general ban on brothels has given an impulse to the investigation and prosecution of THB. From its inspections in the prostitution industry, the police have gained a better overview of the industry and improved its information position when seeking to detect signs of THB (within and outside the regulated sectors of prostitution). These signs are indispensable for the investigation and prosecution of THB within and outside the regulated sector.

It can be concluded from the Police Monitor 2003<sup>40</sup> that a reasonably transparent and reorganised part of the industry now consists of legal (licensed) and supervised businesses. In this context, the administrative sanction involving the closure of brothels must be regarded as a particularly successful 'leverage tool'. The inspected businesses are becoming increasingly more cooperative as regards administrative supervision and are careful not to employ minors or illegal aliens.

The police and the judiciary are now shifting their focus from the reorganised part of the prostitution industry and are attempting to combat THB in the unlicensed and generally location-independent sectors. The administrative approach to these sectors of the prostitution industry in particular (the

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<sup>38</sup> Parliamentary documents 2003-2004, 27 925, no. 4.

<sup>39</sup> Parliamentary documents 2003-2004, 27 925, no. 123.

<sup>40</sup> Parliamentary documents II, 2003-2004, Appendix to Just040618.

escort sector, for example) is important for the investigation and prosecution of THB, since the part of the prostitution industry that wishes to avoid normalisation would appear to have largely shifted to location-independent and less visible forms of prostitution exploitation. Therefore, when investigating THB, particular attention will be given to these forms of exploitation (NRM 1, 26 and NRM 3, 39). In its Action Plan on the Regulation and Protection of the Prostitution Industry, the Government formulated measures for administrative enforcement in the prostitution industry (NRM 3, 39). Although these measures are relevant to the combating of THB, the Government suffices, as regards these measures, with a reference to the relevant action plan.

Other organisations that play an important role in the combating of THB are: the **KMar**, *special investigation services (for example, the FIOD, ECD and SIOD)*, *inspection authorities (for example, the Tax and Customs Administration and the Health and Safety Inspectorate)* and *implementation bodies (for example, the UWV)*.

The above services may play a role in the investigation of THB, not only due to their special expertise (financial expertise, for example), but also because their specific activities mean that they gain information on or detect signs of THB. As indicated above, this information is important for the investigation of THB according to the so-called 'IGO concept'. It is important that the various organisations are able to work together, coordinate and share information properly and efficiently.

A number of the organisations indicated above also contribute to the combating of so-called 'facilitators' who are involved in identity fraud, or in diverting or whitewashing trafficking proceeds. When interviewing victims and questioning THB suspects, these supporting facts will be raised more often and more emphatically for the purpose of gathering information. After all, more intensive investigations which help 'hunt down' these 'facilitators' will prevent criminals from committing THB and other criminal offences (NRM 3, 43). This reflects the 'Prevention' concept referred to above, but also policy on combating illegal employment, such as the policy formulated in the Policy Document on Illegal Aliens<sup>41</sup>. Besides combating THB, the combating of identity fraud, whitewashing, fraudulent employment agencies and rackrenters also fall under this policy. For the measures being taken in relation to these specific areas of policy, and the organisations contributing to them, the Government refers to the Policy Document on Illegal Aliens and the corresponding progress reports.

When investigating THB, financial investigations must be launched more frequently and at an earlier stage. On the one hand, this is necessary for the (separate) confiscation procedure, on the other hand since financial investigations may yield valuable information providing proof of the THB case itself. Information from financial investigations may also be useful when determining the level of (material) compensation to be awarded to the victim (NRM 3, 47 and OCSE, III 2.6 and V 6.2).

The Government also acknowledges that more effort must be made to achieve a result in terms of the confiscation of illegally obtained profits in THB cases. The high profit, combined with the unlikelihood of being caught for this crime, continues to be the most important motivator for (potential) perpetrators of THB (NRM 1). It is important that financial investigations be commenced more frequently in the framework of a THB investigation, and at an earlier stage. Use must be made of the expertise available from the **Prosecution Service Criminal Assets Deprivation Bureau [Bureau Ontnemingswetgeving Openbaar Ministerie (BOOM)]** and there must be operational collaboration with the **MOT**. International collaboration is also urgently required on this point if any kind of impact is to be achieved. After all, profits made in one country are often hidden elsewhere, in a different country (NRM 3, 51).

At the end of 2002, the Minister of Justice commissioned the WODC, an organisation that falls under the Ministry of Justice, to instruct the performance of an evaluation study into factors that hamper and facilitate the progress of major confiscation cases. The study was conducted in the period March 2003 - February 2004. The evaluation report and the policy response to it was presented to the Lower House

<sup>41</sup> Parliamentary documents II, 2003–2004, 29 537, no. 1.

by the Minister of Justice, also on behalf of the Minister of the Interior and Kingdom Relations, on 21 June 2004<sup>42</sup>. For details of the measures taken further to the evaluation study, the Government refers to its policy response and to the outcomes of the general parliamentary consultations with the Lower House in this respect.

### 5.3 Prosecuting THB

The PPS is putting measures in place to further improve the investigation and prosecution of THB. For example, the national THB officer has now taken in hand the management of THB cases conducted by the National Criminal Investigation Department. The National Public Prosecutor also performs national coordination tasks in respect of the investigation and prosecution of THB (NRM 3.48 and 3.49).

The PPS has also created a national consultative body presided over by the procurator-general with THB in his portfolio. In this national consultative body, the various Public Prosecutors for THB meet to exchange knowledge and information, monitor study results, identify problems and coordinate the implementation of national policy (OBP, 4.26). Furthermore, in order to facilitate knowledge development, a THB programme has been developed, which is being delivered by the SSR. Partly in connection with the new legislation, the instructions in relation to THB, which were developed by the Board of Procurators General, will now be updated (OBP, 4.25).

No.	Action	Initiative	End date
60	The instructions in relation to THB, developed by the Board of Procurators General will be updated (OBP, 4.25). <i>Progress: given the large number of (new) partners involved in the instructions, more time is needed to develop new instructions. At the present time, a working group from the PPS is revising the instructions. The new instructions will emphasise the importance of providing victims with proper information on the potential risks involved when reporting an offence and on the possibilities and facilities available. The present instructions in relation to THB have been extended until 1 May 2005. Postponed until 1 May 2005</i>	Justice	1 January 2005

As already indicated above, the development of the National Criminal Investigation Department may be useful in the fight against THB. Although investigations into THB have previously already been conducted at supraregional and national level, the creation of the National Criminal Investigation Department and supraregional criminal investigation teams will further improve the central management of the combating of major and organised crime with a national or international character.

In order to further this aim, in Section 5.2.1. (Investigation organisation) there is an in-depth discussion of the policy response issued further to the national threat analysis of very serious and organised crime, in which the Minister of Justice and the Minister of Foreign Affairs and Kingdom Relations indicated the effect this would have for prioritisation within the investigation and prosecution of THB, amongst other things. This policy response describes the role played by the PPS and the measures that will be put in place by the PPS in line with the national threat analysis and the policy response.

The various chain partners must ensure the proper coordination of their individual approaches and must work on reinforcing each other. Administrative and criminal-law enforcement in particular must complement each other effectively. Chain partners must meet regularly to share methods, exchange policy information and coordinate prioritisation. This will facilitate the adoption of an integral approach, generating more than the sum of its parts. The collection and registration of information must also be coordinated wherever possible. Since administrative enforcement and criminal-law

<sup>42</sup> Parliamentary documents II, 2003-2004, 26 268, no. 26.

enforcement fall upon the police, the PPS and local authorities jointly, this subject must regularly be raised in consultations between these chain partners (OBP, 4.26 and 4.27).

It is important that the reports produced by the Dutch National Rapporteur on THB contain specific signals and recommendations on points where the chain partners must take responsibility when combating THB. Specific recommendations of this nature will ensure that THB is given a more prominent place on the agenda where necessary.

#### 5.4 Investigation and prosecution at international level

In many cases, THB is an organised, cross-border activity. By focusing investigation and prosecution at an international level, a better understanding can be gained of the different stages in the THB process that have taken place outside the Netherlands, and the THB chain can be broken.

In order to prevent a situation in which action is limited to the various ways in which the THB phenomenon manifests itself, and in order to promote an effective response to parties involved in the chain outside the Netherlands – which is also important for the prevention of THB – the Government is encouraging *international collaboration* wherever possible and is trying to remove obstacles preventing or hampering this. This includes making collaboration agreements with specific countries of origin at an EU and bilateral level and supporting prevention projects in those countries. Where obstacles are experienced despite existing legal instruments for international collaboration, the PPS will increase the extent to which its voice and presence are felt (NRM 3, 40 and 3, 50 and OCSE, III 3.1-3.4).

No.	Action	Initiative	End date
61	Promote international collaboration in the combating of THB, for instance by making collaboration agreements with countries of origin at an EU and bilateral level and by supporting prevention projects in these countries.	Justice and Foreign Affairs	ongoing

No.	Action	Initiative	End date
62	The PPS will make an inventory of obstacles preventing international collaboration.	Justice	1 May 2005

In the past too, the Minister of Justice launched the idea of a European area of justice for cross-border forms of organised crime, more in particular when combating THB (NRM 3, 41). The time would not yet appear to be ripe for this initiative. During the Netherlands' presidency, in continuation of the Tampere working programme, a new *long-term EU programme* was formulated for collaboration and a common approach in the area of migration, asylum, the judiciary and police. This programme was formulated bearing in mind that European citizens (quite rightly) expect the European Union to put up a united and effective front to the combating of cross-border problems such as illegal migration, THB, human smuggling, terrorism and organised crime, with due observance of fundamental freedoms and rights. This 'Hague programme' sets out various measures to be put in place by the member states (jointly), which are also relevant to the combating of THB. Amongst other things, and in the framework of the EU Borders Agency and in close consultation with Europol and Eurojust, the European Council requests that member states improve their joint analyses of migration routes, human smuggling, THB practices and criminal networks active in this area. Member states are also urged to adopt an innovative approach to the cross-border exchange of law enforcement information (subject to strict conditions, of course). It is acknowledged that the effective combating of cross-border organised crime and other serious crime and terrorism require more intensive practical collaboration between the police and customs authorities from the individual member states and with Europol, and the improved use of the instruments already available in this respect. Furthermore, it is not unimportant that crime prevention is regarded as an indispensable part of the creation of an area of freedom, security and justice, that the Union thus needs an effective instrument to support efforts made by the member states in relation to crime prevention and that, to this end, the European network for crime prevention must



be professionalised and reinforced. The European Council applauds the development of a strategic concept with regard to the battle against cross-border organised crime at the level of the European Union and requests that the Commission further develop and operationalise this concept with other partners, such as Europol, Eurojust, the Task Force of European Chiefs of Police, the European Crime Prevention Network (EUCPN) and the European Police Academy (EPA). Cases involving corruption and links between corruption and organised crime must also be investigated.

In the light of the above programme, the European Council has requested that the Commission submit an action plan to the Council in 2005, in which plan the objectives and priorities of the programme are to be translated into a number of specific measures. This plan must also include a schedule for the adoption and implementation of the various measures. With a view to the development of future policy in the field of THB, the Council also requests in its long-term programme that the Commission formulate a plan in this respect in 2005.

Early in October 2004 – in line with the long-term EU programme referred to above – the Task Force of European Chiefs of Police determined that *operational police collaboration in the EU* is still based far too much on national rather than European dimensions. The Task Force wishes to make agreements at a European level on the sharing of intelligence and the setting up of joint investigations in a number of areas. One of these key areas is the combating of East European organised crime. The Netherlands will participate in projects in this area. Europol will contribute specific information for this key area and be involved in the coordination of investigations. Countries in which the appropriate legislation is in place can set up joint investigation teams, which facilitate legal aid and the sharing of information.

A THB pilot has been initiated, in which the Netherlands and a number of other EU member states, including Germany and the United Kingdom, are working towards the creation of a Joint Investigation Team, geared towards combating THB in Bulgaria. This is a new instrument with which very little experience has been gained to date. The object of the current project is to develop best practices for Joint Investigation Teams. At the same time, efforts are focused on initiating one or more specific international criminal investigations (OBP, 4.21).

No.	Action	Initiative	End date
63	The creation and organisation of a Joint Investigation Team (JIT) will be supported (OBP, 4.21). <i>Progress: this year, the results of an interim evaluation will reveal which obstacles are being encountered in preparations for a Joint Investigation Team.</i>	Interior and Kingdom Relations/Justice	1 January 2005

The strengthening of (international) collaboration so justifiably emphasised in numerous areas should not result in the parallel and independent development of initiatives focusing on this issue without (increased) harmonisation between the initiators. Through better communication and the improved provision of information on pending and current initiatives (for example, those in the field of training, scientific research and data collection), the duplication of initiatives such as this will be prevented, so that, where duplication could be possible, the (scarce) resources available can be used for a joint initiative or for other activities not carried out before or elsewhere (NRM 3, 53).

In the interests of the objective representation of Dutch policy, both at bilateral and at international level, the Netherlands will explain its prostitution policy and be more active in promulgating its policy on combating THB in particular. At an international level, these two areas of policy are often confused (NRM 3, 52). It is now possible to adopt a more public stance in terms of Dutch policy, since monitoring performed in relation to the lifting of the general ban on brothels has shown that legalisation is having a positive impact on the combating of THB. Not only are increasingly fewer cases of THB being encountered in the licensed and supervised sectors of the sex industry, supervision in these sectors is also providing the police with a valuable source of information for the combating of THB under criminal law in the unlicensed sectors of this industry.

With a view to explaining the Dutch prostitution policy, the Ministry of Foreign Affairs has developed a brochure entitled 'Dutch Policy on Prostitution. Questions and Answers 2004' [*Vragen en antwoorden over het Nederlandse prostitutiebeleid*]. This brochure can be requested in various languages via the Ministry's website<sup>43</sup>. At present, the Ministry of Justice and the Ministry of Foreign Affairs are working on a leaflet aimed at the Dutch embassies, amongst other organisations, in which the Dutch policy and the results achieved from its implementation are explained in a style that is brief and to the point. In addition, wherever possible, important (international) meetings on THB and prostitution are attended by delegations from the relevant ministries. Where international decision-making is involved, the presence of the relevant ministries is self-evident.

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<sup>43</sup> [http://www.minbuza.nl/default.asp?CMS\\_TCP=tcpAsset&id=DD4FBBCB6EE14102A58AAA13FEA22B43](http://www.minbuza.nl/default.asp?CMS_TCP=tcpAsset&id=DD4FBBCB6EE14102A58AAA13FEA22B43)

## 6 Investigation and registration

The optimal central registration of *all* victims of THB is important. A new registration system is being introduced to women's shelters. This will make it possible for the shelters themselves to register (underage) victims of trafficking in women. The *central* registration of victims of THB is the responsibility of the STV.

Via a brochure and its website, the STV provides information to all of the various partners in the chain who might encounter victims of THB. In the B9 regulation, the STV is referred to in relation to foreign victims. However, the scope of the STV's task is not limited to foreign victims. If registration is to occur properly, it is important that all (victim support) organisations that (could) encounter victims of THB are aware of the possibility of registering all victims as such, including Dutch and underage victims, and to register them with the STV. Therefore, it is important to ensure that all organisations that might encounter victims of THB are made aware of the value and the advantages of central registration, and are informed as to where and how this should be done. Added to this, criteria will be needed to make it possible to establish whether or not an individual is actually a victim. To this end, a list of uniform criteria is currently being developed in collaboration with the STV. The various organisations must also be motivated in this respect. Motivation will increase the more organisations themselves benefit from registration. For this reason, the STV will ensure that the registering organisations receive regular feedback from the central register of victims (NRM 3, 27 and OCSE, IV 1.1-1.3 and IV 6.1-6.2).

No.	Action	Initiative	End date
64	A new registration system will be introduced to women's shelters. This will make it possible to register female victims of trafficking who are offered a place in a women's shelter.	Health, Welfare and Sport	1 May 2005
65	The STV will use a brochure and its website to inform all of the various partners in the chain who could encounter victims of THB and will ensure that the registering organisations receive regular feedback from the central register of victims of THB.	Justice	1 May 2005
66	Together with the STV, a list of uniform criteria is being developed. This will be used to ascertain whether or not an individual is actually a victim	Justice	1 May 2005

In the Action Plan on the Regulation and Protection of the Prostitution Industry, the Government has stressed the importance of administrative enforcement for the combating of THB (also see Section 4.2). For the evaluation and further development of policy, it is important that national summaries be made available of the results obtained from administrative inspections and (any) subsequent administrative interventions in the prostitution sector. This will provide a better insight into the frequency of inspections and the number of (underage) victims of THB and illegal prostitutes encountered (NRM 3, 33). This would make it possible, for example, to ascertain whether and to what extent administrative measures against a fraudulent proprietor in one municipality can be used when assessing a licence application by the same proprietor in another municipality, in order to prevent proprietors such as this from 'doing the rounds' (NRM 3, 34). Obtaining insight into the status of administrative enforcement forms part of the second evaluation of the lifting of the general ban on brothels, which will be conducted in 2005.

No.	Action	Initiative	End date
67	During the second evaluation of the lifting of the general ban on brothels (2 <sup>nd</sup> half of 2005), national summaries will be made available of the results obtained from administrative inspections and (any) subsequent administrative interventions in the prostitution industry.	Interior and Kingdom Relations and Justice	End of 2005

Despite efforts made within the framework of the Dutch presidencies of the OSCE and the Council of Europe, for example, there are only a few officials equivalent to the Dutch NRM in other countries. Incidentally, a number of countries are now considering creating a national referral mechanism of this nature – partly as a result of the pressure exerted on them by various international organisations. Since various international initiatives have sought to analyse and monitor the THB problem from a supranational perspective and interest, the lack of information and data collection at a national level is now being felt more urgently. Given this fact, the Government believes that further efforts should be made to encourage other countries to set up bodies equivalent to the NRM in terms of scope. This would promote the availability and exchange of relevant information between countries and with international organisations, thus improving and broadening insight into the nature and extent of THB for the countries concerned and the international community. This is extremely important for the combating of THB and for the choice of tools needed to do so (NRM 3, 31, OCSE, V 3.1 and 3.6, VI 1-3).

No.	Action	Initiative	End date
68	At international level, continue to insist upon the creation of national referral systems, such as the Dutch National Rapporteur on THB	All of the various ministries involved	ongoing

The forthcoming broadening of the article on THB in the Criminal Code should lead to a corresponding broadening of the subject matter on which the NRM's report should focus. With this in mind, it has now been decided to extend the appointment of the Dutch National Rapporteur on THB and the Bureau of the Dutch National Rapporteur on Trafficking in Human Beings [*Bureau Nationaal Rapporteur Mensenhandel (BNRM)*] until at least the end of 2008 (NRM 3, 57). The Government will send the Lower House a policy response to the evaluation conducted by the BNRM as soon as possible. This policy response will indicate that, in line with the broadening of the definition of THB in the new Article 273a of the Criminal Code, the key area applicable for the NRM will also broaden.

## Appendix 1

### The current Article 250a of the Criminal Code

1. The following shall be liable to a term of imprisonment not exceeding six years or to a fine of the fifth category:
  - (a) anyone who by force or some other physical act, by threats of violence or of any other physical act, by misuse of authority arising from the actual state of affairs or by deception, forces or otherwise induces another person to make him/herself available for the performance of sexual acts with or for a third party for remuneration or, under the said circumstances, takes any action which he or she knows or may reasonably be expected to know will result in that other person's making him/herself available for performance of said acts;
  - (b) anyone who recruits, takes with him or abducts a person with a view to inducing that person to make him/herself available for the performance of sexual acts with or for a third party for remuneration in another country;
  - (c) anyone that induces another person to make him/herself available for the performance of sexual acts with or for a third party for remuneration or takes any action which he or she knows or may reasonably be expected to know will result in that other person making him/herself available for the performance of said acts when the other person is a minor;
  - (d) anyone that wilfully profits from sexual acts performed by another person with or for a third party for remuneration, while he/she knows or must reasonably assume that said other person is making him/herself available for the performance of said acts under the circumstances referred to in paragraph 1;
  - (e) anyone that wilfully profits from sexual acts performed by another person with or for a third party for remuneration, if the other person is a minor;
  - (f) anyone that forces or otherwise induces another person by violence or some other physical threat of violence or other physical act or by misuse of authority arising from the actual state of affairs or by deception, to benefit the offender from the proceeds of his/her sexual acts with or for a third party.
2. The offender shall be punishable with a term of imprisonment not exceeding eight years or by a fifth category fine where:
  - (a) the offences described in paragraph 1 are committed by two or more persons acting in concert;
  - (b) the minor in question is under the age of sixteen;
  - (c) violence or another physical act as referred to in paragraph 1 results in serious physical injury.
3. The offences described in paragraph 1, committed by two or more persons acting in concert in the circumstances referred to in paragraph 2, under (b) and (c), shall be punishable by a term of imprisonment not exceeding ten years or a fine of the fifth category.

## Appendix 2

### Legislative proposal for Article 273a of the Criminal Code, implementing international regulations to combat the smuggling of and trafficking in human beings<sup>44</sup>

1. Any person who:

- (a) by force, violence or other act, by the threat of violence or other act, by extortion, fraud, deception or the misuse of authority arising from the actual state of affairs or by the misuse of a vulnerable position, recruits, transports, takes with him, accommodates or shelters another person or gives or receives remuneration or benefits in order to obtain the consent of a person who has control over this other person, with the intention of exploiting this other person or removing his or her organs;
- (b) recruits, transports, takes with him, accommodates or shelters a person with a view to exploiting that other person or removing his or her organs, when that person has not yet reached the age of eighteen years;
- (c) recruits, takes with him or abducts a person with a view to inducing that person to make himself/herself available for performing sexual acts with or for a third party for remuneration in another country;
- (d) forces or induces another person by the means referred to under (a) to make himself/herself available for performing work or services or making his/her organs available or takes any action in the circumstances referred to under (a) which he knows or may reasonably be expected to know will result in that other person making himself/herself available for performing work or services or making his/her organs available;
- (e) induces another person to make himself/herself available for performing sexual acts with or for a third party for remuneration or to make his/her organs available for remuneration or takes any action towards another person which he knows or may reasonably be expected to know will result in that other person making himself/herself available for performing these acts or making his/her organs available for remuneration, when that other person has not yet reached the age of eighteen years;
- (f) wilfully profits from the exploitation of another person;
- (g) wilfully profits from the removal of organs from another person, while he knows or should be reasonably expected to know that the organs of that person have been removed under the circumstances referred to under (a);
- (h) wilfully profits from the sexual acts of another person with or for a third party for remuneration or the removal of this person's organs for remuneration, when this other person has not yet reached the age of eighteen years;
- (i) forces or induces another person by the means referred to under (a) to provide him with the proceeds of that person's sexual acts with or for a third party or from the removal of that person's organs;

shall be guilty of trafficking in human beings and as such liable to a term of imprisonment not exceeding six years or a fine of the fifth category.

2. Exploitation comprises at least the exploitation of another person in prostitution, other forms of sexual exploitation, forced or compulsory work or services, slavery or practices equivalent to slavery or servitude.

3. The offender shall be punishable with a term of imprisonment not exceeding eight years or a fine of the fifth category if:

- (a) the offences described in the first paragraph are committed by two or more persons acting in concert;
- (b) the offences described in the first paragraph are committed in respect of a person who is under the age of sixteen years.

4. The offences as described in the first paragraph, committed by two or more persons acting in concert under the circumstance referred to in paragraph 3 (b), shall be punishable with a term of imprisonment not exceeding ten years or a fine of the fifth category.

5. If one of the offences described in the first paragraph results in serious physical injury or threatens the life of another person, it shall be punishable with a term of imprisonment not exceeding twelve years or a fine of the fifth category.

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<sup>44</sup> Parliamentary documents II, 2003-2004, 29 291, no. 1.

6. If one of the offences referred to in the first paragraph results in death, it shall be punishable with a term of imprisonment not exceeding fifteen years or a fine of the fifth category.

7. Article 251 is applicable *mutatis mutandis*.