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Commission



# Third-country national victims of trafficking in human beings: detection, identification and protection

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## Disclaimer

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This study formed part of the EMN's 2021 Work Programme.

## Explanatory note

This study has been prepared on the basis of national contributions from 27 EMN NCPs (AT, BE, BG, CY, CZ, DE, EE, EL, ES, FI, FR, HR, HU, IE, IT, LT, LU, LV, MT, NL, PL, PT, SE, SI, SK, NO, GE) collected via a common template developed by the EMN NCPs to ensure, to the extent possible, comparability. National contributions were largely based on desk analysis of existing legislation and policy documents, reports, academic literature, internet resources and reports and information from national authorities rather than on primary research. The listing of (Member) States in the study following the presentation of synthesised information indicates the availability of relevant information provided by those (Member) States in their national contributions, where more detailed information may be found and thus it is strongly recommended that these sources are consulted as well.

The statistics provided were sourced from Eurostat, national authorities and other (national) databases.

It is important to note that the information contained in this study refers to the situation in the abovementioned EU Member States, Norway and Georgia up to December 2020, as reported in the contributions made by their EMN NCPs.

# CONTENTS

<b>EXECUTIVE SUMMARY</b> _____	<b>7</b>	2.2. AUTHORITIES COMPETENT TO DETECT AND IDENTIFY THIRD-COUNTRY NATIONALS WHO ARE (PRESUMED) VICTIMS OF TRAFFICKING OF HUMAN BEING _____	22
KEY POINTS TO NOTE _____	7	2.3. MEASURES TO DETECT AND IDENTIFY THIRD-COUNTRY NATIONALS WHO ARE (PRESUMED) VICTIMS OF TRAFFICKING IN HUMAN BEINGS _____	23
BACKGROUND AND RATIONALE FOR THE STUDY _____	7	<b>3. PROTECTION AND SUPPORT MEASURES</b> _____	<b>32</b>
STUDY AIMS AND SCOPE _____	8	3.1. PROTECTING (PRESUMED) VICTIMS BY GRANTING THE RIGHT TO STAY _____	32
METHOD AND ANALYSIS _____	8	3.2. ACCESS TO ASSISTANCE AND PROTECTION FOR (PRESUMED) VICTIMS _____	39
EU AND NATIONAL LEGAL AND POLICY CONTEXT AND DEVELOPMENTS _____	8	<b>4. COOPERATION</b> _____	<b>50</b>
DETECTION AND IDENTIFICATION _____	9	4.1. COOPERATION WITHIN THE SCOPE OF THE DUBLIN III REGULATION _____	50
PROTECTION AND SUPPORT MEASURES _____	10	4.2. COOPERATION AT EU AND INTERNATIONAL LEVEL _____	51
COOPERATION AT EU AND INTERNATIONAL LEVEL _____	11	<b>5. CONSEQUENCES OF THE COVID-19 PANDEMIC</b> _____	<b>54</b>
CONSEQUENCES OF THE COVID-19 PANDEMIC _____	11	5.1. CONSEQUENCES OF THE COVID-19 PANDEMIC FOR DETECTION, IDENTIFICATION, AND PROTECTION OF (PRESUMED) VICTIMS _____	54
<b>1. INTRODUCTION</b> _____	<b>12</b>	5.2. NEW PATTERNS AND/OR TRENDS IDENTIFIED IN TRAFFICKING IN HUMAN BEINGS AS A RESULT OF THE COVID-19 PANDEMIC _____	55
1.1. BACKGROUND AND RATIONALE FOR THE STUDY _____	12	5.3. ADAPTATION OF PUBLIC POLICIES AND PROCEDURES TO THE CHALLENGES OF THE COVID-19 PANDEMIC _____	55
1.2. STUDY AIMS AND SCOPE _____	14	<b>6. CONCLUSIONS</b> _____	<b>57</b>
1.3. METHOD AND ANALYSIS _____	14	<b>7. ANNEXES</b> _____	<b>59</b>
1.4. STRUCTURE OF THE STUDY _____	14		
1.5. EU AND NATIONAL LEGAL AND POLICY CONTEXT AND DEVELOPMENTS _____	14		
<b>2. DETECTION AND IDENTIFICATION</b> _____	<b>21</b>		
2.1. OVERVIEW OF THE DETECTION AND IDENTIFICATION OF THIRD-COUNTRY NATIONALS (PRESUMED) VICTIMS OF TRAFFICKING IN HUMAN BEINGS _____	21		



## 1.1. GLOSSARY OF TERMS

The study uses the following definitions, which – unless otherwise stated – are based on the EMN Asylum and Migration Glossary.<sup>1</sup>

Term	Definition
<b>Competent authority</b>	A competent authority belongs to the government of a (Member) State (of the European Union) and is designated under most of EU directives and regulations. They must be notified to the European Commission.
<b>Detection of (a situation of) trafficking in human beings</b>	The process of identifying a possible situation of trafficking in human beings.
<b>Identification of a victim of trafficking in human beings</b>	The process of confirming and characterising a situation of trafficking in human beings, for implementation of further support.
<b>Identified victim of trafficking in human beings</b>	A person who has been formally identified as a victim of trafficking in human beings according to the relevant competent authority in.
<b>Dublin procedure</b>	The process of determining the Member State responsible for examining an application for international protection lodged in one of the EU Member States by a third-country national under Regulation (EU) No 604/2013 (Dublin III Regulation).
<b>Dublin transfer</b>	The (physical) transfer of an applicant to the Member State who is determined to be responsible for examining the application following a Dublin procedure  *to be distinguished from the “shift of responsibility” which consist of the transfer of responsibility for the examination of the merits of an application for international protection from one Member State to another.
<b>International protection</b>	In the global context, the actions by the international community on the basis of international law, aimed at protecting the fundamental rights of a specific category of persons outside their countries of origin, who lack the national protection of their own countries.  In the EU context, protection that encompasses refugee status and subsidiary protection status.
<b>National referral/ cooperation mechanisms (NRM)</b>	Mechanisms aimed at identifying, protecting and assisting victims of trafficking in human beings, through referral, and involving relevant public authorities and civil society. <sup>2</sup>
<b>Potential victim of trafficking in human beings</b>	A person vulnerable to trafficking in human beings. <sup>3</sup>
<b>Presumed victim of trafficking in human beings</b>	A person who has met the criteria of EU regulations and international conventions but has not been formally identified by the relevant authorities (e.g. police) as a trafficking victim or has declined to be formally or legally identified as victim of trafficking.
<b>Protection of (presumed) victims of trafficking in human beings</b>	The action of national authorities aimed at protecting the fundamental rights of (presumed) victims of trafficking in human beings. <sup>4</sup>
<b>Reception centre</b>	A location with facilities for receiving, processing and attending to the immediate needs of refugees or asylum applicants as they arrive in a country of asylum.

1 EMN Glossary, [https://ec.europa.eu/home-affairs/networks/european-migration-network-emn/emn-glossary\\_en](https://ec.europa.eu/home-affairs/networks/european-migration-network-emn/emn-glossary_en) last accessed on 16 March 2022.

2 Anti-trafficking Directive, Article 11(4) lays down an obligation for EU Member States to take the necessary measures to establish appropriate mechanisms aimed at the early identification of, assistance to and support for victims, in cooperation with relevant support organisations.

3 Definition inspired by the International Organization for Migration (IOM), <https://publications.iom.int/books/migrants-and-their-vulnerability-human-trafficking-modern-slavery-and-forced-labour>, last accessed on 10 June 2021.

4 Definition inspired by the Anti-trafficking Directive, Article 11. A person shall be provided with assistance and support as soon as the competent authorities have reasonable grounds to believe that the person might have been subjected to trafficking in human beings.

Term	Definition
<b>Reflection period</b>	A period of time determined according to national law granted to third-country nationals officially identified as victims of trafficking in human beings allowing the victim to recover and escape the influence of the perpetrators of the offences so that they can take an informed decision as to whether (or not) to cooperate with the competent authorities.
<b>Registered victim of trafficking in human beings</b>	A person who is either an identified or a presumed victim of human trafficking and who has been registered by authorities and/or other agencies and organisations. <sup>5</sup>
<b>Trafficking in human beings</b>	The recruitment, transportation, transfer, harbouring or reception of persons, including the exchange or transfer of control over those persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.
<b>Transfer of procedure</b>	The process of changing from one migration procedure to another. <sup>6</sup>
<b>Victim(s) of crime</b>	Anyone who has suffered physical, mental, emotional or economic harm caused by a criminal offence, as well as family members of someone whose death was caused by a criminal act. <sup>7</sup>
<b>Victimisation</b>	<p><b>Secondary victimisation</b> occurs when the victim suffers further harm not as a direct result of the criminal act but due to the manner in which institutions and other individuals deal with the victim. <b>Re-victimisation</b> is a synonym for secondary victimisation.<sup>8</sup></p> <p><b>Repeat victimisation:</b> situation when the same person suffers from more than one criminal incident over a specific period of time.<sup>9</sup></p>
<b>Voluntary return</b>	The assisted or independent return to the country of origin, transit or third country, based on the free will of the returnee.
<b>Vulnerable person</b>	Minors, unaccompanied minors, disabled people, older people, pregnant women, single parents with minor children, victims of trafficking in human beings, people with serious illnesses, people with mental disorders and people who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence, such as victims of female genital mutilation (FGM).

5 Definition inspired by the European Commission, Data collection on trafficking in human beings in the EU, 2020, [https://ec.europa.eu/anti-trafficking/system/files/2020-10/study\\_on\\_data\\_collection\\_on\\_trafficking\\_in\\_human\\_beings\\_in\\_the\\_eu.pdf](https://ec.europa.eu/anti-trafficking/system/files/2020-10/study_on_data_collection_on_trafficking_in_human_beings_in_the_eu.pdf), last accessed on 16 March 2022.

6 Definition developed by the Core AG for the purposes of this study.

7 Victims' Rights Directive, Article 2.

8 Definitions taken from the European Institute for Gender Equality (EIGE), Glossary and Thesaurus, <https://eige.europa.eu/thesaurus/terms/1661>, last accessed on 26 January 2022.

9 Ibid.

# EXECUTIVE SUMMARY



## KEY POINTS TO NOTE

- Between 2015 and 2020 more than 10 500 third-country national victims of trafficking in human beings were registered in the EU Member States, Norway and Georgia, with minors accounting for 8.5%, and sexual and labour exploitation representing approximately 75% of the cases.<sup>10</sup> Institutional, policy and legislative initiatives have been adopted with the aim to strengthen coordination among relevant actors and better equip them to protect (presumed) victims, as well as enhance investigations and increase sanctions against perpetrators.
- Given its clandestine nature trafficking in human beings remains underreported. As (presumed) victims also fear retaliation against those who are close to them, their detection and identification is challenging, albeit critical for their safety and well-being. While conceptually and legally different, in practice a clear distinction between the two phases does not always exist. Early detection and identification are crucial to ensure the prompt organisation of assistance and protection. It also enables competent authorities to better investigate, prosecute, and convict traffickers.
- In general, the formal identification of a victim constitutes the trigger for different forms of support, although in some cases these are already provided at detection stage too. Following a reflection period, an authorisation to reside in the country where they were identified can be made, on the grounds of their victimisation and/or to support investigation and prosecution of their perpetrators. In most cases residence rights that are not conditional on victims' participation in criminal proceedings or on humanitarian or international protection grounds are granted.
- The grounds for and modalities of assistance and protection of (presumed) victims are provided for in different EU legal instruments. Support measures cover the right to information, translation and interpretation, counselling, legal representation and legal aid, access to appropriate accommodation and material support, as well as to medical treatment and psychological assistance, and the right to compensation. Access to witness protection programmes and measures to avoid repeat and secondary victimisation during the investigation and criminal proceedings are offered too.
- Due to the cross-border and cross-cutting nature of trafficking in human beings, cooperation at national and international level is a crucial element and can take different forms, ranging from networks and mechanisms to exchange information and good practices, to joint operations that reinforce collaboration between competent authorities, to ad-hoc initiatives in response to emerging needs or challenges with third countries whose nationals are victims in EU Member States.
- EU Member States, Norway and Georgia finally reported that the outbreak of the COVID-19 pandemic has added significant challenges to the detection, identification and protection of (presumed) victims of trafficking in human beings. Moreover, the disruption in the economy resulting from the pandemic has dramatically increased the vulnerability of some people who were already at risk. The pandemic has changed how victims are recruited, trafficked and exploited, with most countries sharing concern about the growing use of online means.



## BACKGROUND AND RATIONALE FOR THE STUDY

Trafficking in human beings is a crime against people that can take various forms, such as sexual exploitation, forced labour or services, slavery and servitude-related practices, as well as the removal of organs, all of which constitute a grave violation of the

victim's fundamental rights. Trafficking in human beings is addressed under various EU and international instruments. One of the key priorities of the new EU Strategy on Combating Trafficking in Human Beings 2021-2025 is protecting, supporting and empowering victims, including

<sup>10</sup> Other forms of trafficking in human beings can include also forced services, including begging, slavery or practices similar to slavery, servitude, or the exploitation of criminal activities, or the removal of organs. Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA (Anti-trafficking Directive), Article 3(2), <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A32011L0036>, last accessed on 22 March 2022.

their early identification. Working with relevant EU agencies is fundamental, as is engaging in cooperation and partnerships against trafficking with non-EU countries of origin and transit, and with organisations at regional and international level regarding the EU's external relations policy.<sup>11</sup>

Between 2015 and 2020, more than 10 500 third-country national victims of trafficking in human beings were registered, with minors accounting for 8.5%, and sexual and labour exploitation representing approximately 75% of the cases. Trafficking in human beings is not only recognised as a highly profitable crime,<sup>12</sup> but one with links to social development and security, migration, conflict and climate-induced displacement. The impact and cost of human trafficking on individuals and on political, economic and social systems is enormous. Given its clandestine nature and the myriad factors that may deter a victim

from reporting such crime, trafficking in human beings is believed to be significantly underreported.<sup>13</sup>

Early identification of victims is crucial to promptly assist, support and protect victims of trafficking in human beings, as well as enabling police and prosecution authorities to better investigate and punish traffickers.<sup>14</sup> However, whilst their detection and identification is critical, it also remains problematic, and has been severely impacted by the outbreak of the COVID-19 pandemic. Assistance and protection measures to (presumed) victims are key to reduce the devastating consequences on their physical and psychological health, stemming from the often brutal physical and emotional attacks at the hands of their traffickers, dangerous workplace conditions, occupational hazards, inhumane living conditions, poor sanitation, inadequate nutrition, poor personal hygiene.

## STUDY AIMS AND SCOPE

This study aims to explore the national practices of detection, identification and protection of third-country national victims of trafficking in human beings between 2015 and 2020. It covers third-country nationals who are asylum applicants, in an irregular situation and in possession of a valid authorisation to stay on the territory of an EU Member State, Norway and Georgia (residence permit or short-term visa).

The study is aimed at policymakers at national, European and international level, but also at representatives of specific industries, civil society organisations, academia. The study aims to complement and update findings of other relevant European Commission reports and studies, and to contribute to the European Commission's evaluation of the Anti-trafficking Directive.

## METHOD AND ANALYSIS

This report was prepared on the basis of national contributions from 27 European Migration Network (EMN) National Contact Points (EMN NCPs) submitted in response to a questionnaire developed by the EMN in conjunction with the European Commission. The questionnaire was developed to facilitate comparability of

the information collected from the participating national authorities. National contributions from EU Member States, Norway and Georgia were largely based on desk analysis of existing legislation and policy documents, and information provided by national authorities.

## EU AND NATIONAL LEGAL AND POLICY CONTEXT AND DEVELOPMENTS

The EU recognises trafficking in human beings as a violation of human rights, and the EU Charter on Fundamental Rights, Article 5(3) prohibits trafficking in human beings. The EU's competence to act in relation to trafficking in human beings is set out in the EU Treaties. The EU has put in place rules specifically dedicated to the identification and protection of victims of trafficking (such as the Anti-trafficking Directive) and to victims in general (as per the Victims' Rights Directive). Besides these two instruments, the EU's legal framework regulating

migration and asylum procedures may also apply (albeit more indirectly) to (presumed or identified) victims of trafficking.

In 2021, the new EU Strategy on Combating Trafficking in Human Beings 2021-2025 called for a comprehensive response by: (i) reducing demand that fosters trafficking; (ii) breaking the business model of traffickers online and offline; (iii) protecting, supporting and empowering victims, with a specific focus on women and children; and (iv) promoting cooperation with international partners. Tackling trafficking in human beings and the early identification of

11 Renewed EU action plan against migrant smuggling (2021-2025), [https://ec.europa.eu/home-affairs/renewed-eu-action-plan-against-migrant-smuggling-2021-2025-com-2021-591\\_en](https://ec.europa.eu/home-affairs/renewed-eu-action-plan-against-migrant-smuggling-2021-2025-com-2021-591_en), last accessed on 23 March 2022.

12 International Labour Organization (ILO), Profits and Poverty: The Economics of Forced Labour, 2014, [https://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---declaration/documents/publication/wcms\\_243391.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_243391.pdf), last accessed on 22 March 2022.

13 Europol, European Union serious and organised crime threat assessment (SOCTA), 2021, <https://www.europol.europa.eu/activities-services/main-reports/european-union-serious-and-organised-crime-threat-assessment>, last accessed on 22 March 2022.

14 European Commission, Communication on the EU Strategy on Combating Trafficking in Human Beings 2021-2025, 2021 (New EU Strategy), 2021, [https://ec.europa.eu/home-affairs/sites/default/files/pdf/14042021\\_eu\\_strategy\\_on\\_combatting\\_trafficking\\_in\\_human\\_beings\\_2021-2025\\_com-2021-171-1\\_en.pdf](https://ec.europa.eu/home-affairs/sites/default/files/pdf/14042021_eu_strategy_on_combatting_trafficking_in_human_beings_2021-2025_com-2021-171-1_en.pdf), last accessed on 22 March 2022.

potential non-EU victims is a priority in several other recent Communications adopted by the European Commission, such as the EU Security Union Strategy,<sup>15</sup> the New Pact on Migration and Asylum,<sup>16</sup> the Europol Serious and Organised Crime Threat Assessment and the EU Strategy to tackle Organised Crime 2021–2025.<sup>17</sup>

EU Member States, Norway and Georgia have adopted institutional, policy and legislative initiatives to strengthen coordination among relevant actors<sup>18</sup> and better equip them to protect (presumed) victims, as well as enhance investigations and prosecutions, and increase convictions

of perpetrators. In particular, around half of EU Member States, Norway and Georgia channelled efforts to enhance the capacity of key stakeholders, by setting up National Referral Mechanisms (NRMs) or alternatives to them, adopting National Action Plans (NAPs) or strategic documents targeting this crime as well as passing legislative reforms to enhance investigations and increase sanctions against perpetrators<sup>19</sup> or by establishing organisational units to combat certain forms of human trafficking or to protect certain types of victims.<sup>20</sup>



## DETECTION AND IDENTIFICATION

The concepts of detection and identification were introduced into EU law by the Anti-trafficking Directive.<sup>21</sup> Detection refers to the process of identifying a possible situation of human trafficking,<sup>22</sup> which may be followed by identification, which is the formal confirmation that the detected person(s) can be considered a presumed victim of trafficking according to the competent authorities.<sup>23</sup> Not all countries have a clear distinction in place between detection and identification.<sup>24</sup>

The authorities involved in detecting and identifying (presumed) victims vary across countries. Whilst a variety of authorities are competent to detect (presumed) victims, identification is usually carried out by a more limited number of authorities. Law enforcement agencies are competent to both detect and identify (presumed) victims in all countries. In some countries, these include the public prosecutor.<sup>25</sup> Border guards, asylum and migration services, labour inspectorates and NGOs are usually competent to detect and – to a lesser extent – identify.

A variety of national procedures and measures to detect third-country nationals who are (presumed) victims of human trafficking exist. The most common measure is facilitating self-reporting of the crime,<sup>26</sup> followed by awareness-raising campaigns,<sup>27</sup> the use of indicators to

detect victims,<sup>28</sup> intelligence gathering,<sup>29</sup> and proactive screening mechanisms during asylum<sup>30</sup> and migration<sup>31</sup> procedures. Several EU Member States and Norway have also put in place specific measures to detect (presumed) victims in the asylum procedure,<sup>32</sup> which largely concerns proactive screening for vulnerabilities,<sup>33</sup> and in the context of the legal migration procedure,<sup>34</sup> as well as for those who are in the (voluntary) return procedure<sup>35</sup> or found in an irregular situation.<sup>36</sup>

Many EU Member States,<sup>37</sup> Norway and Georgia, reported on procedures in place to identify (presumed) victims of trafficking in human beings, which are mostly implemented by the police,<sup>38</sup> and to a lesser extent by a Public Prosecutor<sup>39</sup> or a combination of authorities and organisations.<sup>40</sup> Whilst having multiple authorities responsible for the identification of (presumed) victims is sometimes challenging, it can also be advantageous, as it reduces the chances that a victim will go unnoticed. Some EU Member States and Norway apply specific identification measures in their asylum<sup>41</sup> and legal migration procedures,<sup>42</sup> as well as for those who are voluntary returnees<sup>43</sup> or found to be in an irregular situation.<sup>44</sup>

EU Member States, Norway and Georgia, reported on the challenges in detecting<sup>45</sup> and identifying<sup>46</sup> potential

15 European Commission, Communication on the EU Security Union Strategy, 2020, <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52020DC0605&from=EN>, last accessed on 23 March 2022.

16 European Commission, Communication on a New Pact on Migration and Asylum, 2020, [https://ec.europa.eu/info/sites/default/files/1\\_en\\_act\\_part1\\_v7\\_1.pdf](https://ec.europa.eu/info/sites/default/files/1_en_act_part1_v7_1.pdf), last accessed on 23 March 2022.

17 European Commission, Communication on the EU Strategy to tackle Organised Crime 2021–2025, 2021, [https://ec.europa.eu/home-affairs/sites/default/files/pdf/14042021\\_eu\\_strategy\\_to\\_tackle\\_organised\\_crime\\_2021-2025\\_com-2021-170-1\\_en.pdf](https://ec.europa.eu/home-affairs/sites/default/files/pdf/14042021_eu_strategy_to_tackle_organised_crime_2021-2025_com-2021-170-1_en.pdf), last accessed on 23 March 2022.

18 EE, EL, ES, FI, IE, IT, LT, NL, PT, SE, SI and NO.

19 BE, BG, CY, EE, ES, FR, IE, LT, LU, NL, PT, SE, SK, SL and NO, GE.

20 EL and NO.

21 Anti-Trafficking Directive, Articles 11(2), 11(5), 12(2) and 12(3).

22 EMN Glossary, [https://ec.europa.eu/home-affairs/pages/glossary/detection-victim-trafficking-human-beings\\_en](https://ec.europa.eu/home-affairs/pages/glossary/detection-victim-trafficking-human-beings_en), last accessed on 23 March 2022.

23 EMN Glossary, [https://ec.europa.eu/home-affairs/pages/glossary/identification-victim-trafficking-human-beings\\_en](https://ec.europa.eu/home-affairs/pages/glossary/identification-victim-trafficking-human-beings_en), last accessed on 23 March 2022.

24 AT, CZ, FR, IE, LV, NL, PT, SE, SK and NO, GE.

25 BE, CZ, EE and GE for both detection and identification.

26 AT, BE, BG, CY, CZ, DE, EE, EL, ES, FI, FR, HR, HU, IE, LU, LV, NL, PT, SE, SI, SK and NO, GE.

27 AT, BE, BG, CZ, EE, EL, ES, FI, FR, HR, HU, IE, LU, LV, NL, PT, SE, SI, SK and NO, GE.

28 AT, BE, CY, CZ, EL, ES, FI, HU, IE, LT, LU, LV, NL, PL, PT, SE, SI, SK and NO, GE.

29 BE, BG, CY, CZ, EE, EL, ES, FI, HR, HU, IE, LV, LU, NL, PT, SE, SK and NO, GE.

30 AT, BE, BG, CY, CZ, EE, EL, ES, FR, HU, IE, IT, LT, LV, LU, NL, PL, PT, SI, SK and NO, GE.

31 BG, CY, CZ, EE, FI, HU, LU, LV, NL, PT, SI, SK and GE.

32 BE, CY, DE, EE, EL, ES, FI, FR, HU, IE, IT, LT, LU, NL, PL, SE, SK and NO.

33 CY, DE, EE, EL, FI, FR, HU, IE, HR, IT, LT, LU, NL, SE and NO.

34 CY, FI, IT, NL, SE and NO.

35 CY, HU, IE, LT, MT, NL and NO.

36 CY, FI, IT, NL, SE, SK and NO.

37 AT, BE, BG, CZ, DE, EE, EL, ES, FI, HU, IE, IT, LU, MT, PL, SE, SI.

38 AT, BG, CY, CZ, DE, EE, ES, FI, FR, HR, HU, IE, IT, LT, LU, LV, MT, NL, PL, SE, SI, SK and NO, GE.

39 BE, EL.

40 EE, FI, IT.

41 DE, FI, HU, LT, SK and NO.

42 FI and NO.

43 NO.

44 ES and NO.

45 BE, FI, FR, IE, LT, LU, SE, SK and GE.

46 CY, IE, LT, NL, SI and NO and GE.



victims of trafficking, despite having specific measures in place. The lack of resources for training and capacity-building was viewed as a prominent obstacle, as

concerned stakeholders did not possess the necessary skills and abilities to determine whether a person could be a victim.



## PROTECTION AND SUPPORT MEASURES

A reflection period is granted in most countries<sup>47</sup> for third-country national (presumed) victims to escape the influence of the perpetrator, recover and take an informed decision on whether to cooperate with the competent authorities, while preventing them from being expelled or transferred to another Member State. In a few countries, victims first have to be formally identified.<sup>48</sup> In most countries, conditions or obligations can apply, mostly requiring (presumed) victims to cooperate with national authorities<sup>49</sup> or avoid contact with the suspected perpetrator or other persons who might influence the (presumed) victim's decision to cooperate.<sup>50</sup> The reflection period can last from 30 days<sup>51</sup> up to 90 days<sup>52</sup> in most EU Member States and Georgia.

Upon expiration of the reflection period, victims of trafficking can apply for an authorisation to reside in the country where they were identified, on the grounds of their victimisation and/or to support investigation and prosecution of their perpetrators. The EU acquis lays down the conditions for issuing and renewing the residence permit of a (presumed) victim, after the expiry of the reflection period, or earlier if they have shown a clear intention to cooperate with the competent authorities.<sup>53</sup> Almost all EU Member States bound by the Directive reported having permits or authorisations to stay in place under certain conditions.<sup>54</sup> Some countries require the victim to be formally identified in order to obtain a permit to stay,<sup>55</sup> while almost half of the EU Member States, Norway and Georgia do not distinguish between detected and identified victims.<sup>56</sup>

Most countries grant these permits on the condition that the victim has severed all relations with those suspected of acts related to facilitating illegal immigration or

trafficking in human beings,<sup>57</sup> that their stay in the country might require assisting with the investigation or the judicial proceedings<sup>58</sup> and that they are not considered a danger to public policy or national security.<sup>59</sup> Residence permits are usually granted for an initial duration of 6-12 months<sup>60</sup> and can be renewed<sup>61</sup> or remain valid for as long as the criminal proceedings are ongoing.<sup>62</sup> Finally, most countries also grant residence rights that are not conditional on their participation in criminal proceedings,<sup>63</sup> or allow third-country nationals to reside based on humanitarian grounds.<sup>64</sup>

Under the EU acquis, (presumed) victims of trafficking in human beings can benefit from a range of measures to support and protect them. In general, these are triggered by a formal identification of a victim, although in some cases they are already provided at detection stage. In terms of assistance and support, many countries provide information and counselling as well as information on the risk of repeat victimisation, and access to protection measures.<sup>65</sup> A large number grant an unconditional right to translation and interpretation,<sup>66</sup> while legal representation and legal aid during the reflection period is offered in almost all cases.<sup>67</sup> Access to appropriate accommodation is provided to (presumed) victims by a majority of countries in all situations.<sup>68</sup> Material assistance is granted also after the expiration of the reflection period<sup>69</sup> while in nearly half the countries, (presumed) victims are entitled to access social and economic integration programmes.<sup>70</sup> Most EU Member States, Norway and Georgia provide access to medical treatment regardless of the situation<sup>71</sup> and psychological assistance.<sup>72</sup> Measures seeking to protect (presumed) victims against secondary and repeat victimisation were reported less frequently than other ones, with a proportionally smaller group of countries

47 AT, BE, BG, CY, CZ, DE, EL, FI, IE, IT, LV, NL, PT, SE, SK and NO, GE.

48 EE, ES, FR, HR, HU, LT, LU, MT, SI.

49 BG, LT, MT.

50 BE, CY, CZ, EE, EL, FI, HR, IE, LT, LU (Minister can terminate the reflection period in this case), LV, MT, SK.

51 AT, CY, FR, LT, LV, MT (extendable), SI, SE and GE.

52 BG, BE, CZ, EE, EL, ES, IE, LU, NL, PL, PT SK.

53 Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities, Article 8(1).

54 AT, BE, CY, CZ, DE, EE, EL, ES, FI, FR, HU, LT, LU, LV, MT, NL, PL, PT, SE, SI, SK and NO, GE.

55 BE, EL, ES, FR, HR, IE, LU, LV, PT, SI. In Belgium, formal identification is only required for the residence permit of six months, not for the initial residence permit of three months.

56 CY, DE, FI, IT, LT, NL, PL, SE, SK and NO, GE.

57 BE, CY, DE, EE, FI, FR, IE, LU, PL, PT, SE, SI SK and NO.

58 AT, CY, DE, FI, FR, IE, LU, LV, NL, PT, SE, SI SK and NO.

59 BE, CY, DE, EE, FR, HR, LU, NL (unless the danger is linked to the THB), PL, SE, SI.

60 AT (12 months, renewable), BE (three months for presumed victims; six months for identified victims), CY (12 months, renewable) CZ (six months), DE (minimum six months), EE (6-12 months), EL (12 months), FI (6-12 months), FR (6-12 months according to the situation), HR (6-12 months), HU, IE (six months for identified victims), IT (initial duration six months, renewable up to twelve months), LU (six months, renewable), LV, NL (three years), PL (12 months), PT (12 months, renewable), SE (six months), SI (6-12 months), SK (six months, renewable), NO (12 months), GE (6-12 months, renewable once).

61 AT, CY, NL, SI, SK, NL, LU (renewable, on each occasion for a period of six months, for the duration of the judicial proceedings),

62 BE, CY, CZ, EE, EL, FI, FR, HU, IE, LU, PL, SE and NO, GE.

63 BE, BG, CZ, DE, EL, ES, FI, FR, HR, IT, LU, LV, MT, NL, PL, SI and GE.

64 BE, DE, EL, FR, HR, LU.

65 AT, BE, BG, CY, CZ, EE, FI, HR, IE, IT, LU, SE, SI, SK and NO, GE (the right to information covers all situations covered in the report, with the exception of Dublin III procedures, as the Dublin III Regulation does not apply to Georgia (this clarification applies to all rights covered in this section).

66 AT, BE, BG, CY, CZ, EE, ES, FI, FR, HR, IE, IT, LU, NL, SE, SI, SK and NO, GE.

67 AT, BE, BG, CY, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, LU, NL, PL, SE, SI, SK and NO, GE.

68 AT, BE, BG, CY, CZ, DE, EE, FI, FR, HR, IT, LU, LV, NL, PL, SE, SI, SK and NO, GE. NO.

69 AT, BE, BG, CZ, DE, EE, ES, FI, FR, IE, IT, LT, LU, LV, NL, PL, SK; NO (asylum and Dublin III procedures).

70 AT, BE, BG, CY, ES, FI (in Finland, only victims who have a residence permit are entitled to formal social and economic integration programmes. However, civil society organisations offer some integration services within the scope of their activities and within the limits of their resources), without differentiating the victims based on their status, HR, IT, LU, SI and NO, GE.

71 AT, BE, BG, CZ, EE, ES, FI, FR, HR, IE, IT, LT, LU, LV, NL, SE, SI, SK and GE, NO.

72 AT, BE, CY, CZ, DE, EE, FI, FR, HR, IE, IT, LT, LU, NL, SE, SI, SK and NO, GE.

indicating that these apply to all groups of (presumed) victims in all situations.<sup>73</sup>



## COOPERATION AT EU AND INTERNATIONAL LEVEL

Due to the cross-border and cross-cutting nature of trafficking in human beings, cooperation at national and international level is a crucial element in the fight against this crime, not only in terms of investigation and prosecution of perpetrators, but also to detect, identify and protect victims. Cooperation takes different forms, ranging from networks and mechanisms for exchanging information and good practices to joint operations that reinforce collaboration between competent authorities.

When there is a suspicion that a third-country national, during the implementation of the procedures envisaged by the Dublin III Regulation, may be a victim of trafficking in human beings, the procedure most commonly followed consists of a formal assessment by the competent authorities<sup>74</sup> and/or by notifying the EU Member State of first entry.<sup>75</sup> In most EU countries, the competent

authorities involved in the Dublin procedure make use of NRMs<sup>76</sup> and (presumed) victims are entitled to a reflection period.<sup>77</sup>

Europol's European Multidisciplinary Platform Against Criminal Threats (EMPACT) was widely appreciated for enabling structured multi-disciplinary cooperation,<sup>78</sup> while at operational level, Joint Investigation Teams (JITs) were viewed as effective tools in the fight against human trafficking.<sup>79</sup> Cooperation with third countries whose nationals are victims in EU Member States, Norway and Georgia aims mostly at ensuring the safe return and reintegration of victims of trafficking in human beings<sup>80</sup> (sometimes with a particular focus on children)<sup>81</sup> and strengthening police cooperation and facilitating investigations into labour exploitation.<sup>82</sup>



## CONSEQUENCES OF THE COVID-19 PANDEMIC

The COVID-19 pandemic posed several important challenges to the detection, identification and protection of (presumed) victims, ranging from limited outreach and awareness-raising activities<sup>83</sup> and reduced capacity of structures to support and protect (presumed) victims, to the increased isolation of victims, and overburdened law enforcement and judiciaries.<sup>84</sup> Over half of the EU Member States, Norway and Georgia adapted their policies

and procedures to address the challenges posed by the COVID-19 health crisis.<sup>85</sup> Several EU Member States, Norway and Georgia were forced to close or adapt (part of) their public services as a result of the public health measures,<sup>86</sup> while the pandemic has changed how victims are recruited, trafficked and exploited, with most reporting on the increasing use of the internet to recruit, exploit and control victims.<sup>87</sup>

73 AT, BE, BG, IE, IT, LU, SI and NO.

74 AT, BG, CY, DE, EE, FI, FR, IE, IT, LT, LU, NL, PL, SK and NO.

75 EE, IT, LU, MT, SI.

76 BE, CY, DE, FR, IE, IT, LU, LV, NL (no NRM but any suspicion of human trafficking during the asylum procedure (including the Dublin procedure) is sent to the human trafficking unit of the national police (AVIM) to determine further action), SI.

77 AT, BE, BG, EE, ES, EL, FI, IE, LT, LU, LV, MT, PL, SE, SI and NO.

78 AT, BE, CY, CZ, EL, ES, FI, FR, HR, HU, IE, IT, LT, LV, NL, PT, SE and NO.

79 BE, CZ, ES, FI, HR, LT, SK.

80 AT, BE, CY, CZ, EL, FI, FR, HR, IE, IT, LT, LU, NL, SI, SK and NO.

81 DE, EL, FR, LU.

82 BE, CZ, EL, ES, FR, HR, LT, LV, NL and GE.

83 BE, DE, FR, LT, LU and NO, GE.

84 BE, FR, HU, NL, PL, PT and NO.

85 BE, CY, DE, EE, EL, ES, FI, FR, IE, LV, NL, PL, PT and NO, GE.

86 BE, CY, DE, EE, EL, ES, FI, FR, IE, IT, LT, LU, LV, NL, PL, PT and NO, GE.

87 AT, CY, EL, LU, LV, DE, ES, FR, HR, LT, LU, LV, NL, SI, SK and GE.

# 1. INTRODUCTION



## 1.1. BACKGROUND AND RATIONALE FOR THE STUDY

Trafficking in human beings is a crime against people that can take various forms, such as sexual exploitation, forced labour or services, slavery and servitude-related practices, as well as the removal of organs, all of which constitute a grave violation of the victim's fundamental rights. Trafficking in human beings is addressed under various EU and international instruments, such as:

- Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims (the Anti-trafficking Directive)<sup>88</sup>
- Charter on Fundamental Rights of the European Union (EU)<sup>89</sup>
- European Convention on Human Rights (ECHR)<sup>90</sup>
- Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Children and Women, supplementing the UN Convention against Transnational Organised Crime (Annex II)<sup>91</sup>
- Council of Europe (CoE) Convention on Action against Trafficking in Human Beings<sup>92</sup> (monitored by the Group of Experts on Action against Trafficking in Human Beings (GRETA), CoE Convention on Preventing and Combating Violence Against Women and

Domestic Violence (Istanbul Convention),<sup>93</sup> and CoE Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention)<sup>94</sup>

- United Nations (UN) Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)<sup>95</sup>
- Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, the International Covenant on Civil and Political Rights (ICCPR)<sup>96</sup>
- Global Compacts for Migration<sup>97</sup> and Refugees<sup>98</sup>
- 2030 Agenda for Sustainable Development<sup>99</sup>

According to the latest data gathered from the EU Member States, Norway and Georgia, more than 10,500 third-country national victims of trafficking in human beings were registered, between 2015 and 2020.<sup>100</sup> Trends in the EU appear to mirror those at global level: for every 10 victims detected, five are adult women, two are girls, and one in every three is a child.<sup>101 102 103</sup> Trafficking in human beings is not only recognised as a highly profitable crime,<sup>104</sup> but one with links to social development and security, migration, conflict and climate-induced displacement. The impact and cost of human trafficking on

88 Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA (Anti-trafficking Directive), <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A32011L0036>, last accessed on 26 January 2022.

89 Charter of Fundamental Rights of the European Union, 2012, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A12012P%2FTXT>, last accessed on 26 January 2022.

90 ECHR, 1950, [https://www.echr.coe.int/documents/convention\\_eng.pdf](https://www.echr.coe.int/documents/convention_eng.pdf), last accessed 28 February 2022.

91 United Nations Office on Drugs and Crime (UNODC), Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN Convention against Transnational Organised Crime (Palermo Protocol), 2000, [https://www.unodc.org/res/human-trafficking/2021the-protocol-tip\\_html/TIP.pdf](https://www.unodc.org/res/human-trafficking/2021the-protocol-tip_html/TIP.pdf), last accessed on 26 January 2022.

92 CoE, Convention on Action against Trafficking in Human Beings, 2005, <https://rm.coe.int/168008371d>, last accessed on 26 January 2022.

93 CoE, Convention on Preventing and Combating Violence Against Women and Domestic Violence, 2011, <https://rm.coe.int/168008482e>, (Istanbul Convention), last accessed on 26 January 2022.

94 CoE, Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, 2007, <https://rm.coe.int/1680084822>, last accessed on 28 February 2022.

95 UN, Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1979, <https://www.un.org/womenwatch/daw/cedaw/>, last accessed on 26 January 2022.

96 UN, International Covenant on Civil and Political Rights, 1966, <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>, last accessed on 26 January 2022.

97 UN Global Compact for Safe, Orderly and Regular Migration, 2018, [https://www.un.org/en/ga/search/view\\_doc.asp?symbol=A/RES/73/195](https://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/73/195), last accessed on 26 January 2022.

98 UN, Global Compact for Refugees, 2018, <https://www.unhcr.org/5c658aed4>, last accessed on 26 January 2022.

99 UN, 2030 Agenda for Sustainable Development, 2015, [https://www.un.org/ga/search/view\\_doc.asp?symbol=A/RES/70/1&Lang=E](https://www.un.org/ga/search/view_doc.asp?symbol=A/RES/70/1&Lang=E), last accessed on 26 January 2022.

100 Trafficking in human beings is addressed under Goal 5 (Gender Equality), Goal 8 (Decent Work and Economic Growth) and Goal 16 (Peace Justice and Strong Institutions). For information and comparison, more than 14 000 victims of trafficking in human beings were recorded in the EU between 2017 and 2018; European Commission, Data collection on trafficking in human beings in the EU, 2020, <https://op.europa.eu/en/publication-detail/-/publication/5b93c49f-12a0-11eb-9a54-01aa75ed71a1>, last accessed on 26 January 2022.

101 Ibid.

102 UNODC, Global Report on Trafficking in Persons, 2020, [https://www.unodc.org/documents/data-and-analysis/tip/2021/GlobalTip\\_2020\\_15jan\\_web.pdf](https://www.unodc.org/documents/data-and-analysis/tip/2021/GlobalTip_2020_15jan_web.pdf), last accessed on 26 January 2022.

103 The Counter Trafficking Data Collaborative, Global Data Hub on Human Trafficking, <https://www.ctdatacollaborative.org/> last accessed on 26 January 2022.

104 International Labour Organization (ILO), Profits and Poverty: The Economics of Forced Labour, 2014, [https://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---declaration/documents/publication/wcms\\_243391.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_243391.pdf), last accessed on 26 January 2022.

individuals and on political, economic and social systems is enormous. Trafficking victims may suffer from an array of devastating physical and psychological health issues stemming from brutal physical and emotional attacks at the hands of their traffickers, dangerous workplace conditions, occupational hazards, inhumane living conditions, poor sanitation, inadequate nutrition, poor personal hygiene, and a general lack of quality healthcare.

Persistent demand for sexual services and for low-wage workers employed in manual jobs continues to provide opportunities for traffickers to exploit human beings and, in spite of the recent significant increase in the number of people convicted, many perpetrators remain undetected and unpunished.<sup>105</sup> Given its clandestine nature and the myriad factors that may deter a victim from reporting such crime, trafficking in human beings is believed to be significantly underreported.<sup>106</sup> Detection and identification of (potential) victims of trafficking in human beings is therefore likely to remain simultaneously critical and problematic, as flagged by a recent European Parliament report.<sup>107</sup>

Third-country nationals account for more than half of all registered victims in EU Member States.<sup>108</sup> Vulnerable migrants are reported to be at persistent risk of becoming victims of trafficking along migration routes, with unaccompanied minors and those in the process of seeking asylum at particular risk of becoming victims of trafficking in human beings and other gender-based violence, such as rape or domestic violence.<sup>109</sup> Reception centres for asylum applicants can be targeted by human traffickers for recruitment purposes.<sup>110</sup> Early identification of victims is crucial to promptly assisting, supporting and protecting victims of trafficking in human beings, as well as enabling police and prosecution authorities to better investigate

and punish traffickers.<sup>111</sup> However, their detection and identification in mixed migration flows remains a challenge<sup>112</sup> in a number of EU Member States,<sup>113</sup> reflecting tensions in respect of the current legal framework (especially within asylum procedures),<sup>114</sup> as well as disruption in victim assistance and support services due to the COVID-19 pandemic.<sup>115</sup>

The full extent of the impact of the COVID-19 pandemic on trafficking in human beings is not yet known. However, a rise in poverty as a result of restrictions and an increase in vulnerabilities linked to migration status and ongoing travel restrictions may have contributed to higher levels of trafficking and placed third-country national migrants at greater risk of exploitation.<sup>116</sup> The risk of minors being exploited is believed to have increased.<sup>117</sup> The pandemic has also made the identification of victims of trafficking more challenging for authorities and led to delays in identification procedures.<sup>118</sup>

In 2012, the EU called on EU Member States to set up “systematic approach(es) to victim identification, protection and assistance” including promoting “regular training for officials likely to come into contact with victims or potential victims of trafficking in human beings [...] aimed at enabling them to identify and deal with victims and potential victims of trafficking in human beings”.<sup>119</sup> One of the key priorities of the EU Strategy on Combating Trafficking in Human Beings 2021–2025 is protecting, supporting and empowering victims, including early identification of victims. Working with relevant EU agencies is fundamental, as is engaging in cooperation and partnerships against trafficking with non-EU countries of origin and transit, and with organisations at regional and international level regarding the EU’s external relations policy.<sup>120</sup>

105 UNODC, Global Report on Trafficking in Persons, 2020, [https://www.unodc.org/documents/data-and-analysis/tip/2021/GlobalTip\\_2020\\_15jan\\_web.pdf](https://www.unodc.org/documents/data-and-analysis/tip/2021/GlobalTip_2020_15jan_web.pdf), last accessed on 26 January 2022.

106 Europol, European Union serious and organised crime threat assessment (SOCTA), 2021, <https://www.europol.europa.eu/activities-services/main-reports/european-union-serious-and-organised-crime-threat-assessment>, last accessed on 26 January 2022.

107 European Parliament, Report on the implementation of Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims, (2020/2029(INI)), 2020, [https://www.europarl.europa.eu/doceo/document/A-9-2021-0011\\_EN.pdf](https://www.europarl.europa.eu/doceo/document/A-9-2021-0011_EN.pdf), last accessed on 26 January 2022.

108 European Commission, Data collection on trafficking in human beings in the EU, 2020, [https://ec.europa.eu/anti-trafficking/system/files/2020-10/study\\_on\\_data\\_collection\\_on\\_trafficking\\_in\\_human\\_beings\\_in\\_the\\_eu.pdf](https://ec.europa.eu/anti-trafficking/system/files/2020-10/study_on_data_collection_on_trafficking_in_human_beings_in_the_eu.pdf), last accessed on 26 January 2022.

109 European Commission, Third report on the progress made in the fight against trafficking in human beings, 2020, [https://ec.europa.eu/anti-trafficking/third-report-progress-made-fight-against-trafficking-human-beings\\_en](https://ec.europa.eu/anti-trafficking/third-report-progress-made-fight-against-trafficking-human-beings_en), last accessed on 26 January 2022.

110 Europol, European Union serious and organised crime threat assessment (SOCTA), 2021, <https://www.europol.europa.eu/activities-services/main-reports/european-union-serious-and-organised-crime-threat-assessment>, last accessed on 26 January 2022.

111 European Commission, Communication on the EU Strategy on Combating Trafficking in Human Beings 2021–2025, 2021 (New EU Strategy), 2021, [https://ec.europa.eu/home-affairs/sites/default/files/pdf/14042021\\_eu\\_strategy\\_on\\_combatting\\_trafficking\\_in\\_human\\_beings\\_2021-2025\\_com-2021-171-1\\_en.pdf](https://ec.europa.eu/home-affairs/sites/default/files/pdf/14042021_eu_strategy_on_combatting_trafficking_in_human_beings_2021-2025_com-2021-171-1_en.pdf), last accessed on 26 January 2022.

112 European Commission, Third report on the progress made in the fight against trafficking in human beings, 2020, [https://ec.europa.eu/anti-trafficking/third-report-progress-made-fight-against-trafficking-human-beings\\_en](https://ec.europa.eu/anti-trafficking/third-report-progress-made-fight-against-trafficking-human-beings_en), last accessed on 26 January 2022.

113 European Commission, Study on reviewing the functioning of EU Member States’ National and Transnational Referral Mechanisms, 2020, <https://op.europa.eu/en/publication-detail/-/publication/d5542e9c-0e92-11eb-bc07-01aa75ed71a1/language-en>, last accessed on 26 January 2022.

114 Schlintl, J. and Sorrentino, L., Residence Permits, International Protection and Victims of Human Trafficking: Durable Solutions Grounded in International Law, 2021, [https://documentation.lastradainternational.org/lisdocs/3387-REST%20Report%20Residence%20Permits%20-%20International%20Protection%20and%20Victims%20of%20Human%20Trafficking%20-%20FEB%202021.pdf?fbclid=IwAR2YgIwVDXebOCT0MDdJQd9IOGBDw\\_pMZ0d7h5\\_NQF3-E3deluM0bDued4](https://documentation.lastradainternational.org/lisdocs/3387-REST%20Report%20Residence%20Permits%20-%20International%20Protection%20and%20Victims%20of%20Human%20Trafficking%20-%20FEB%202021.pdf?fbclid=IwAR2YgIwVDXebOCT0MDdJQd9IOGBDw_pMZ0d7h5_NQF3-E3deluM0bDued4), last accessed on 26 January 2022.

115 International Organization for Migration (IOM), Understanding the migration and mobility implications of COVID-19, [https://www.iom.int/sites/default/files/documents/covid-19\\_analytical\\_snapshot\\_59\\_human\\_trafficking\\_update.pdf](https://www.iom.int/sites/default/files/documents/covid-19_analytical_snapshot_59_human_trafficking_update.pdf), last accessed on 26 January 2022.

116 Giammarinaro, M.G., ‘The impact and consequences of the COVID-19 pandemic on trafficked and exploited persons’, COVID-19 Position paper, UN Human Rights Special Procedures, 2021, <https://www.ohchr.org/Documents/Issues/Trafficking/COVID-19-Impact-trafficking.pdf>, last accessed on 26 January 2022.

117 Europol, European Union serious and organised crime threat assessment (SOCTA), 2021, <https://www.europol.europa.eu/activities-services/main-reports/european-union-serious-and-organised-crime-threat-assessment>, last accessed on 26 January 2022.

118 CoE, 10<sup>th</sup> General Report on GRETA Activities, 2021, <https://rm.coe.int/10th-general-report-greta-activities-en/1680a21620>, last accessed on 26 January 2022.

119 European Commission, EU Strategy towards the eradication of trafficking in human beings 2012–2016, 2012 (EU Strategy), [https://ec.europa.eu/anti-trafficking/system/files/2015-09/eu\\_strategy\\_towards\\_the\\_eradication\\_of\\_trafficking\\_in\\_human\\_beings\\_2012-2016\\_1.pdf](https://ec.europa.eu/anti-trafficking/system/files/2015-09/eu_strategy_towards_the_eradication_of_trafficking_in_human_beings_2012-2016_1.pdf), last accessed on 26 January 2022.

120 Renewed EU action plan against migrant smuggling (2021–2025), [https://ec.europa.eu/home-affairs/renewed-eu-action-plan-against-migrant-smuggling-2021-2025-com-2021-591\\_en](https://ec.europa.eu/home-affairs/renewed-eu-action-plan-against-migrant-smuggling-2021-2025-com-2021-591_en), last accessed on 23 March 2022.

## 1.2. STUDY AIMS AND SCOPE

This study aims to explore the national practices of detection, identification and protection of third-country national victims of trafficking in human beings. Without adopting the same scope, it updates the 2013 EMN study, 'Identification of victims of trafficking in human beings in international protection and forced return procedures.

The study covers the following categories of third-country nationals, detected, identified and protected as (presumed) victims of trafficking in human beings:

- Asylum applicants;
- People in an irregular situation;
- People in possession of a valid authorisation to stay on the territory of a Member State (residence permit or short-term visa).

The topic of third-country nationals in an irregular situation and subject to a return decision is covered in other recent EMN publications and therefore falls outside the scope of this study.

The temporal scope for statistics and national contexts runs from January 2015 to December 2020. The study is aimed at policymakers at national, European and international level, but also at representatives of specific industries (e.g. private sectors in areas where trafficking in human beings is documented), civil society organisations, academia. The study aims to complement and update findings of other relevant European Commission reports and studies, and to contribute to the European Commission's evaluation of the Anti-trafficking Directive.

## 1.3. METHOD AND ANALYSIS

This study was prepared on the basis of national contributions from 27 European Migration Network (EMN) National Contact Points (EMN NCPs) submitted in response to a questionnaire developed by the EMN in conjunction with the European Commission. The questionnaire was developed to facilitate comparability of the information collected from the participating national authorities. National contributions from the EU Member

States, Norway and Georgia were largely based on desk analysis of existing legislation and policy documents, and information provided by national authorities.

The information collected thus refers mainly to the legislative, policy and practice frameworks put in place by the EU Member States, Norway and Georgia.

## 1.4. STRUCTURE OF THE STUDY

The study is structured in five sections:

1. Overview of the EU legal and policy context, the national context in relation to the latest available data, trends, patterns and trafficking purposes, as well as the state of play of national debates and media coverage of the topic.
2. National policy and legislative developments and measures to detect and identify presumed victims of trafficking in human beings, including information on competent authorities, existing referral mechanisms, challenges and good practices.
3. National policy and legislative developments and measures to protect (presumed) third-country national victims of trafficking in human beings, including the legal framework for granting the reflection period, residence permits and the provision of appropriate information and assistance, as well as challenges and good practices.
4. Cooperation mechanisms in the area of trafficking in human beings with other EU Member States, EU agencies (European Asylum Support Office (EASO), now the European Union Agency for Asylum (EUAA), Europol, European Border and Coast Guard Agency (Frontex) and European Union Agency for Criminal Justice (Eurojust)), international organisations and third countries of origin and transit.
5. Challenges and good practices identified in respect of the impact of COVID-19.

## 1.5. EU AND NATIONAL LEGAL AND POLICY CONTEXT AND DEVELOPMENTS

This section outlines both the EU framework relevant to the identification and protection of victims of trafficking, and recent developments at national level. The first part presents the foundations and rules directly or indirectly applicable to victims of trafficking in human beings, while the second summarises the latest initiatives or policy priorities of the EU Member States and countries covered by the study.

### 1.5.1. EU legal framework protecting victims of trafficking in human beings

The EU's legal arsenal on trafficking in human beings is twofold: the Union has designed and put in place rules specifically dedicated to the identification and protection of victims of trafficking (such as the Anti-trafficking Directive and the Victims' Rights Directive which covers victims in general), and its legal framework regulating migration and asylum procedures may also apply

(albeit more indirectly) to (presumed or identified) victims of trafficking. For example, the Anti-trafficking Directive introduces the concepts of detection and identification of victims in all situations, while existing instruments for international protection and forced return procedures do not explicitly provide for a tailored mechanism but contribute to it nonetheless.<sup>121</sup>

### EU anti-trafficking legislation and victims' rights

The EU recognises trafficking in human beings as a violation of human rights: the EU Charter on Fundamental Rights, Article 5(3) prohibits trafficking in human beings. The EU's competence to act in relation to trafficking in human beings is set out in the EU Treaties. The Treaty on the Functioning of the EU (TFEU) recognises the EU's power to act on trafficking in relation to its nature as (i) a phenomenon with links to migration,<sup>122</sup> and (ii) a cross-border crime.<sup>123</sup>

The Anti-trafficking Directive is the first act at EU level to address trafficking in human beings in a comprehensive and integrated way. The instrument adopts a victim-centred 'human rights approach', providing for a common definition of the criminal offence of trafficking, and obliging EU Member States to "establish appropriate mechanisms aimed at the early identification of and assistance to victims, in cooperation with relevant support organisations".<sup>124</sup> The Anti-trafficking Directive is to be read in conjunction with the Victims' Rights Directive. Both directives provide that victims should have access to assistance and support "before, during and for an appropriate period of time after the criminal proceedings",<sup>125</sup> specify that access to support services should not be dependent on the victim making a formal complaint,<sup>126</sup> and establish mandatory accommodation for victims.<sup>127</sup> The Victims' Rights Directive applies to all victims regardless of their nationality and their migration status in the EU, whilst the Anti-Trafficking Directive excludes third-country nationals who, upon expiry of the reflection period, reside unlawfully in a Member State.<sup>128</sup> The European Court of Human Rights (ECtHR) has reiterated that states not only have the positive obligation to enact laws to ensure the prohibition of slavery, servitude and forced labour,<sup>129</sup> but also to take appropriate measures to remove an individual from a situation or risk, where it is presumed that state authorities were aware that this individual was at real and immediate risk of being trafficked or exploited.<sup>130</sup>

Adopted in 2012, the Victims' Rights Directive<sup>131</sup> establishes minimum standards on the rights, support and protection of victims of crime and ensures that persons who have fallen victim to crime are recognised and treated

with respect.<sup>132</sup> Trafficking in human beings is recognised as one of the crimes covered by the Victims' Rights Directive<sup>133</sup> and all EU Member States<sup>134</sup> must ensure and prioritise victims' protection and safety, regardless of their residence status. Indeed, while the Victims' Rights Directive, Article 1 calls for a non-discriminatory approach to the protection of victims of crime, Article 2 defines a victim as any natural person who has suffered physical, mental or emotional harm or economic loss directly caused by a criminal offence, as well as family members of someone whose death was caused by a criminal act and who have suffered harm as a result of that person's death. Recital 10 highlights that "EU Member States must take necessary measures to ensure that the rights set out in this Directive are not made conditional on the status in their territory or on the victim's citizenship or nationality, or victim's residence status", thus the definition of 'victims' provided *de facto* encompasses third-country nationals who may fall victim to crime within the EU territory, including the crime of trafficking in human beings.

In 2004, the Residence Permit Directive<sup>135</sup> set out a framework for EU Member States to grant a temporary reflection period of unconditional stay and assistance and conditions for granting a residence permit to third-country national victims of trafficking in human beings where they cooperate with the authorities competent to start pre-trial investigations and convict the perpetrator.<sup>136</sup>

#### Box 1: Main EU policy developments addressing trafficking in human beings

In 2012, the European Commission launched the first EU Strategy towards the Eradication of Trafficking in Human Beings 2012–2016 (EU Strategy). It calls on EU Member States to adopt a systematic approach to victim identification, protection and assistance, including through the establishment of formal, functional national referral mechanisms (NRMs).

On 14 April 2021, the European Commission adopted the new EU Strategy on Combating Trafficking in Human Beings 2021–2025, which called for a comprehensive response to combating a complex criminal phenomenon by: (i) reducing demand that fosters trafficking; (ii) breaking the business model of traffickers online and offline; (iii) protecting, supporting and empowering victims, with a specific focus on women and children; and (iv) promoting cooperation with international partners. The European Commission also announced its intention to evaluate the Anti-trafficking Directive, as a key action in the Strategy.

121 Forced return is outside the scope of this study.

122 Treaty on the Functioning of the European Union (TFEU), Article 79, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A12012E%2FTXT>, last accessed on 26 January 2022.

123 TFEU, Article 83.

124 Denmark, Georgia, the Republic of Moldova, and Norway are not bound by this Directive.

125 Anti-trafficking Directive 2011/36/EU, Article 11(1); Victims' Rights Directive 2012/29/EU, Article 8(1).

126 Anti-trafficking Directive 2011/36/EU, Article 11(3); Victims' Rights Directive 2012/29/EU, Article 8(5).

127 Anti-trafficking Directive 2011/36/EU, Article 11(5); Victims' Rights Directive 2012/29/EU, Article 9(3).

128 Anti-trafficking Directive 2011/36/EU, Preamble paragraph 18.

129 European Convention on Human Rights (ECHR), Article 4.

130 ECtHR, *Rantsev v. Cyprus and Russia*, Application No.25965/04, 10 May 2010: <https://rm.coe.int/16806ebd5e>, last accessed on 26 January 2022.

131 Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA, (Victims' Rights Directive), <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A32012L0029>, last accessed on 26 January 2022.

132 Ibid.

133 TFEU, Article 83(1).

134 Denmark opted out of the Victims' Rights Directive.

135 Directive 2004/81/EC on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities (Residence Permit Directive).

136 Denmark, Ireland and Norway are not bound by the 2004 Directive, although have similar national provisions on granting reflection periods and temporary residence permits based on victims' cooperation with the authorities (European Commission, Report on the application of Directive 2004/81/EC, 2010).

Tackling trafficking in human beings and the early identification of potential non-EU victims is a priority in several of the latest Communications adopted by the European Commission. These include the new EU Security Union Strategy,<sup>137</sup> launched in July 2020, and the New Pact on Migration and Asylum<sup>138</sup> of September 2020. It also plays a prominent role in the Europol Serious and Organised Crime Threat Assessment and the EU Strategy to tackle Organised Crime 2021–2025, presented on 13 and 14 April 2021, respectively.<sup>139</sup>

### Box 2: Developments following the unfolding of war in Ukraine

The mass influx of refugees because of the war in Ukraine has increased the vulnerability of people to trafficking in human beings. The majority of people crossing the border from Ukraine to the EU are women and children. Ukraine was already amongst the main countries as regards citizenship of non-EU victims of trafficking in human beings registered in the EU.<sup>140</sup> Criminals and organised crime groups, including some already operating within the EU, are abusing the situation to exploit people, mainly for sexual and labour purposes.

EU Member States have recognised that threat of trafficking in human beings is real. Therefore, targeted awareness raising and preventive measures must be put in place. EU Member States have already launched awareness raising campaigns and other preventive measures targeting arrivals, including leaflets, posters, apps, and hotlines. They increased the coordination amongst law enforcement, border authorities, municipalities, NGOs and migration authorities. They also require the registration of all entities and persons who wish to provide accommodation, transport and any other type of assistance. EU Member States pay specific attention to children, especially to unaccompanied minors, in terms of registration, suitable accommodation and education.

The European Commission published a dedicated webpage on [information for people fleeing Ukraine](#), which includes safety and security advice on the risks of trafficking and exploitation. On 14 March 2022, the European Commission adopted the Operational Guidelines for the implementation of

temporary protection following the mass influx from Ukraine,<sup>141</sup> urging EU Member States to put in place prevention measures available in multiple languages specifically targeting persons fleeing Ukraine.

If potential victims are identified, they should be granted the assistance, support and protection measures set forth in the Anti-trafficking Directive as soon as the relevant authorities have a reasonable-ground indication of exploitation and unconditionally. In applying these measures to children victims of trafficking, the consideration of their best interests has to be paramount. EU Member States should also consult relevant EU and national databases for investigations and consider entering alerts in the renewed Schengen Information System.

### EU asylum and legal migration acquis

The EU asylum and migration acquis does not specifically address victims of trafficking but establishes rules to which (presumed) victims of trafficking in human beings are also subject. These rules, whether they concern asylum seekers or legal migration processes, therefore apply to victims of trafficking, depending on the procedure in which they are involved. Third-country national (presumed) victims of trafficking in human beings who are applicants for international protection are covered by the **EU asylum acquis**, which encompasses three directives and two regulations:

- Three directives: the Qualification Directive, which defines persons who qualify for international protection (refugee status and subsidiary protection status) and the rights related to these two statuses;<sup>142</sup> the Asylum Procedures Directive, which lays down common standards that EU Member States should have in place for granting and withdrawing international protection;<sup>143</sup> and the Reception Conditions Directive, which contains common standards for the reception of applicants to guarantee them a dignified standard of living.<sup>144</sup>
- Two regulations: establishing the criteria and mechanisms for determining the country responsible for examining each application (Dublin III Regulation);<sup>145</sup> and comparing fingerprints for applicants for international protection and other categories of migrants to facilitate the application of the Dublin Regulation and comparing fingerprints for statistical purposes and

137 European Commission, Communication on the EU Security Union Strategy, 2020, <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52020DC0605&from=EN>, last accessed on 26 January 2022.

138 European Commission, Communication on a New Pact on Migration and Asylum, 2020, [https://ec.europa.eu/info/sites/default/files/1\\_en\\_act\\_part1\\_v7\\_1.pdf](https://ec.europa.eu/info/sites/default/files/1_en_act_part1_v7_1.pdf), last accessed on 26 January 2022.

139 European Commission, Communication on the EU Strategy to tackle Organised Crime 2021–2025, 2021, [https://ec.europa.eu/home-affairs/sites/default/files/pdf/14042021\\_eu\\_strategy\\_to\\_tackle\\_organised\\_crime\\_2021-2025\\_com-2021-170-1\\_en.pdf](https://ec.europa.eu/home-affairs/sites/default/files/pdf/14042021_eu_strategy_to_tackle_organised_crime_2021-2025_com-2021-170-1_en.pdf), last accessed on 26 January 2022.

140 According to the latest data available, for the years 2017–2018, European Commission, Study on data collection on trafficking in human beings in the EU (2020), available at: [https://ec.europa.eu/anti-trafficking/third-report-progress-made-fight-against-trafficking-human-beings\\_en](https://ec.europa.eu/anti-trafficking/third-report-progress-made-fight-against-trafficking-human-beings_en), last accessed on 26 January 2022.

141 Communication from the Commission on Operational Guidelines for the implementation of temporary protection following the mass influx from Ukraine, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52022XC0321%2803%29&qid=1647940863274>, last accessed on 23 March 2022.

142 Directive 2011/95/EU on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast): <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32011L0095>, last accessed on 26 January 2022.

143 Directive 2013/32/EU on common procedures for granting and withdrawing international protection (Asylum Procedures Directive) (recast), <https://eur-lex.europa.eu/legal-content/en/ALL/?uri=celex%3A32013L0032>, last accessed on 24 February 2022.

144 Directive 2013/33/EU laying down standards for the reception of applicants for international protection (recast).

145 Regulation (EU) No 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the EU Member States by a third-country national or a stateless person (recast), <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex%3A32013R0604>, last accessed on 24 February 2022.

identifying the responsible Member State law enforcement authority (Eurodac Regulation).<sup>146</sup>

Although outside the scope of this study, the new Pact on Migration and Asylum<sup>147</sup> proposes the possible pre-entry screening of all third-country nationals, who inter alia apply for international protection at external borders or in transit zones and do not fulfil entry conditions, or who are disembarked following a search and rescue operation. The proposed Screening Regulation highlights the importance of border control in combating human trafficking.<sup>148</sup> The screening would aim to accelerate the process of determining the status of a person and the applicable procedure.<sup>149</sup>

The **EU legal migration acquis** comprises six directives which, in addition to setting out admission conditions for certain categories of third-country nationals, also set out the duties and rights for individuals legally residing in the EU, including (presumed) victims of trafficking who hold a residence permit.<sup>150</sup> These directives do not make explicit reference to assistance and support measures available to (presumed) victims of crimes but establish the right of third-country nationals who are legally residing in the EU to enjoy equal treatment in respect of social security, social assistance and social protection, albeit with certain limitations. Among them, the Long-term Residence Directive provides for the broadest set of rights, as it covers social security, assistance and protection, while the other directives apply equal treatment only in respect of access to branches of social security.

### 1.5.2. Main national developments and debates (2015–2020)

The main trends identified at national level between 2015 and 2020 in the EU Member States, Norway, and Georgia consisted primarily of institutional, policy and legislative developments, with some awareness-raising activities. Some countries also experienced media coverage on trafficking in human beings and the publication of certain relevant reports.

#### Institutional developments

Between 2015 and 2020, the majority of EU Member States and Norway set up **coordination systems** to synergise and intensify their activities to detect, identify and protect victims of trafficking in human beings, as well as to combat human trafficking.<sup>151</sup> In several EU Member States and Georgia, including those whose systems were in place before 2015,<sup>152</sup> these national coordination

systems take the form of interinstitutional committees of representatives of different relevant authorities. The committees coordinate efforts to fight human trafficking, exchange good practices and formulate policy proposals and guidelines. One example is the Commission for the Coordination of the Fight Against Trafficking established by the Lithuanian government in 2016. This Commission consists of 23 representatives of various ministries and institutions, as well as non-governmental organisations (NGOs), which come together to formulate policy proposals and coordinate anti-trafficking actions. Finland established an inter-departmental task force in charge of investigations of human trafficking cases. In 2015, Ireland set up an ad hoc task force to investigate exploitation of non-European Economic Area (EEA) workers employed in the Irish fishing fleet. It also has a High-Level Working Group on trafficking, involving the Department of Justice, the Office of the Director of Public Prosecutions and the Irish police.

Several EU Member States appointed specific representatives to support the coordination of efforts to combat human trafficking.<sup>153</sup> Spain established a Social Interlocutor in Human Trafficking, tasked with developing new tools for preventing and fighting this crime, while Finland established the position of the National Anti-trafficking Coordinator, and Sweden appointed an ambassador to strengthen efforts at national and international level. Greece and Norway also established organisational units to combat **certain forms of human trafficking or to protect certain types of victims**. The Swedish Gender Equality Agency is responsible for coordinating national efforts to fight prostitution and all forms of human trafficking, and the Norwegian Central Guidance Unit for Minor Victims of Trafficking is tasked with the protection of child victims supporting child welfare services and other services in cases where children are identified as possible victims of trafficking. In Lithuania the State Labour Inspectorate started to play a more active role in the fight against trafficking, in close coordination with the Ministry of Interior. While these authorities all operate at national level, some governments set up commissions and centres at local level to encourage cooperation between representatives of different authorities.<sup>154</sup>

Four countries reported specifically on the **establishment of NRMs** in the timeframe covered by the study.<sup>155</sup> In addition to a general system of referral established in 2007, Georgia adopted a Child Protection Referral Mechanism in 2016 that expanded the responsible entities for referring cases concerning children to relevant agencies.

146 Regulation (EU) No 603/2013 on the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of Regulation (EU) No 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the EU Member States by a third-country national or a stateless person and on requests for the comparison with Eurodac data by EU Member States' law enforcement authorities and Europol for law enforcement purposes, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32013R0603>, last accessed on 24 February 2022.

147 European Commission, Communication on a New Pact on Migration and Asylum, 2020, [https://ec.europa.eu/info/sites/default/files/1\\_en\\_act\\_part1\\_v7\\_1.pdf](https://ec.europa.eu/info/sites/default/files/1_en_act_part1_v7_1.pdf), last accessed on 24 February 2022.

148 Recital 4, *Proposal For A Regulation Of The European Parliament And Of The Council introducing a screening of third country nationals at the external borders and amending Regulations (EC) No 767/2008, (EU) 2017/2226, (EU) 2018/1240 and (EU) 2019/817*, COM/2020/612 final.

149 European Commission, Proposal for a Regulation introducing a screening of third country nationals at the external borders and amending Regulations (EC) No 767/2008, (EU) 2017/2226, (EU) 2018/1240 and (EU) 2019/817, 2020, [https://ec.europa.eu/info/sites/default/files/communication-screening-third-country-nationals\\_en.pdf](https://ec.europa.eu/info/sites/default/files/communication-screening-third-country-nationals_en.pdf), last accessed on 24 February 2022.

150 Including Directive 2003/109 (Long-term Residence Directive), which allows EU Member States to grant long-term resident status and associated rights to third-country nationals who have resided continuously in a Member State for five years; Directive 2009/50 (EU Blue Card Directive), which establishes the rules for highly-skilled workers; Directive 2011/98 (Single Permit Directive), which sets up the procedure for third-country nationals to obtain a work and resident permit and associated rights; Directive 2014/36 (Seasonal Workers Directive), which governs the working conditions of non-EU seasonal workers; Directive 2014/66 (ICTs Directive), which sets out the conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer; and Directive 2016/801 (Students and Researchers Directive), which harmonises conditions of entry and residence in the EU for third-country researchers and students.

151 EE, EL, ES, FI, IE, IT, LT, NL, PT, SE, SI and NO.

152 EE, EL, IE, IT, LU, PL and GE.

153 ES, FI, SE.

154 LT and NO.

155 BG, EL, NL SE, SK.



Similarly, in 2020, Greece set up a **National Emergency Response Mechanism** to identify, register and provide immediate support and emergency accommodation to minors, including child victims of trafficking. In 2021, Portugal launched an NRM for child (presumed) victims of trafficking in human beings, developed by a Multidisciplinary Group (governmental and non-governmental bodies) and validated by all organisations represented at the National Network for the Assistance and Protection to Victims of Trafficking.

### Policy developments

One of the main policy developments in most EU Member States, Norway and Georgia between 2015 and 2020 was the adoption and re-adoption of National Action Plans (NAPs) to prevent and combat trafficking in human beings.<sup>156</sup> While most of these NAPs address human trafficking in all its forms and cover all types of victims,<sup>157</sup> some EU Member States and Norway adopted NAPs exclusively targeting certain forms of trafficking,<sup>158</sup> or protecting specific types of victims.<sup>159</sup> Greece launched NAPs to address labour exploitation, while Luxembourg, in addition to an overall NAP to combat trafficking, adopted a specific NAP on prostitution. In 2016, the Swedish government launched an action plan to protect children from human trafficking and exploitation. In Belgium, an addendum to the general NAP was adopted to improve the protection of minor victims of trafficking. In Germany, the Federal Government established a couple of working groups, the purpose of which is to streamline cooperation among Ministries, Länder and civil society which are engaged in combatting trafficking in human beings. Spain approved the National Strategic Plan against Trafficking in Human Beings 2021–2023, the first comprehensive tool to address all forms of human trafficking.

In addition to NAPs, Czech Republic, Greece and Slovak Republic **adopted strategic documents** detailing the governments' relevant goals and priorities and Norway launched a national strategy on work-related crimes. While not directly targeting human trafficking, Germany's national human rights action plan 2021–2022, Sweden's national strategy to combat men's violence against women and Greece's National Strategy for the Protection of Unaccompanied Minors all include policy objectives on combating trafficking of women and children, respectively, who are (presumed) victims of trafficking. Several EU Member States also defined the fight against human trafficking as a **domestic and foreign policy priority**.<sup>160</sup> The current coalition governments of Austria and Luxembourg committed themselves to strengthening efforts to combat trafficking in human beings and to protect those affected by human exploitation. One of the measures included in the 2019 Portuguese National Plan to Implement the Global Compact for Migration (GCM) is to produce and disseminate information on what constitutes trafficking in human beings, how to file a complaint, and how to receive assistance and protection.

Another interesting policy development is the creation of **cooperation agreements and partnerships** at national and supranational level. At national level, different **public-private partnerships** were set-up with the non-profit and private sector. For example, the Czech Economic and Cultural Office in Taiwan and the Czech Embassy in the Philippines established cooperation with the NGO, La Strada Czech Republic, to prevent trafficking. National authorities in Estonia established cooperation with the private sector and the Hotel Association, which resulted in the delivery of seminars in the hotel and restaurant sector. In Slovak Republic, the Ministry of Foreign and European Affairs, in cooperation with the Ministry of the Interior, updated its procedures concerning contact with the household personnel of foreign diplomats posted in the country. As part of formal procedures, the NGO in charge of the services for victims of trafficking programme also conducts focused interviews with diplomats' household personnel and provides them with contact information should they ever need it. A series of activities were also carried out in the context of **intergovernmental forums of cooperation**.<sup>161</sup> In 2016, the Benelux countries adopted a declaration of intent regarding cooperation in the fight against human trafficking. The declaration covered cooperation on reception centres, assistance to victims, judicial authorities, police services, immigration and integration and social and labour inspection services. Similarly, the Council of Baltic Sea States (CBSS) signed a joint commitment on actions for prevention of trafficking in human beings for the purpose of workforce exploitation.<sup>162</sup>

### Legislative developments

Between 2015 and 2020, nearly half of the reporting EU Member States, Norway and Georgia **introduced or amended laws** to fight human trafficking or protect victims of trafficking.<sup>163</sup> Several countries **criminalised (additional) forms of human trafficking** or extended the **scope of the offence**. The Criminal Justice (Sexual Offences) Act adopted in Ireland in 2017 criminalises the act of paying to engage in sexual activity with a prostitute or a trafficked person. Similarly, in 2018, Georgia criminalised the act of pimping. In 2015, Spain amended its Criminal Code to include the following elements in the facts constituting trafficking: (i) exchange or transfer of control of persons; (ii) delivery or receipt of payments or benefits for obtaining the consent of the person controlling the victim; and (iii) exploitation for the victims to commit crimes for the exploiters and forced marriage.

Two EU Member States introduced or increased **penalties for human trafficking**.<sup>164</sup> Sweden increased the minimum prison term for human trafficking to six months and set the maximum term for human exploitation to four years. For serious crimes, the prison term ranges from a minimum of two years to a maximum of 10 years. Slovenia introduced a mandatory financial penalty in addition to the existing prison sentence.

<sup>156</sup> AT, BE, CY, CZ, EE, EL, FI, FR, HR, HU, IE, IT, LT, LU, NL, SE, SK, SL and NO, GE.

<sup>157</sup> AT, BE, CY, FI, FR, HR, HU, IE, IT, LT, LU, PL, SE, SK, SL and NO, GE.

<sup>158</sup> EL, LU, SE and NO.

<sup>159</sup> SE.

<sup>160</sup> AT, FR, LU, SE.

<sup>161</sup> Benelux, Council of the Baltic Sea States (CBSS, Network of Anti-Trafficking Coordinators of South-East Europe (NATC SEE).

<sup>162</sup> See: CBSS, Joint Statement of commitment to work against human trafficking for labour exploitation in the Baltic Sea Region, 2021, <https://cbss.org/wp-content/uploads/2021/06/joint-statement.pdf>, last accessed on 02 March 2022.

<sup>163</sup> BE, BG, CY, EE, ES, FR, IE, LT, LU, NL, PT, SE, SK, SL and NO, GE.

<sup>164</sup> SE, LU.

In order to facilitate the investigation of organised crimes, France's Law No 2016-731 enables the **use of special investigation techniques** in searches and interception of electronic communications for offences related to trafficking in human beings, pimping and illegal work.

Focusing on protection, some EU Member States and Norway **amended the conditions for issuing a residence permit to victims of human trafficking**.<sup>165</sup> In France, Law No 2016-44 introduced the possibility for third-country victims of trafficking who have filed a complaint or testified as a part of a criminal investigation to receive a "private and family life residence permit". The Netherlands added the criterion of being a minor to the list of criteria to qualify for a temporary and non-renewable residence permit of one year as a (presumed) victim of trafficking, without filling in a complaint or participating in a criminal investigation. The Netherlands also clarified that for an official determination of victimhood is not necessary to receive a residence permit. Luxembourg amended its Immigration Law in 2021, clarifying that residence permits delivered to victims of human trafficking are renewable on each occasion for a period of six months for the duration of judicial proceedings. In Slovenia, the requirement for a victim's testimony to be relevant was removed and is no longer applicable for issuing a residence permit, yet a new ground for refusal was added. Belgium, Bulgaria, Estonia, France, Spain, Slovak Republic and Georgia adopted a series of measures to **extend the rights of victims of human trafficking and improve their situation**. More specifically, Bulgaria increased the financing of shelters and reintegration of victims, while Spain added free legal aid to the existing benefits of free advice and guidance immediately preceding filing the complaint. To improve provision and access to healthcare services for victims of human trafficking included in its programme of support and protection for victims of trafficking, Slovak Republic adopted a series of legislative changes, including covering the healthcare payments of victims with a "tolerated" status while they are in the programme. Belgium introduced **the principle of non-punishment** of victims of human trafficking in the Penal Code. According to this principle, victims cannot be punished for acts that they have committed as a direct result of their exploitation, regardless of the type of exploitation they are victims of. Finally, two newly adopted laws that **indirectly address human trafficking** are France's law on the duty of vigilance, which creates an obligation for large companies to set up a vigilance plan designed to "identify and prevent serious breaches of human rights", and Lithuania's Law No. XIV-435, which introduces an obligation to pay all salaries and subsistence allowances by bank transfer. In Georgia, a legislative amendment came into force simplifying the procedures for granting the State Compensation which applied to those victims and statutory victims who were granted the status before its adoption. Moreover, the Witness and Victim Coordinators (WVC) Service facilitates communication related to ongoing proceedings and encourages the (presumed) victim/statutory victim of

trafficking to cooperate with law enforcement authorities. Between 2015 and 2020, national governments also adopted or updated a series of **guidelines**,<sup>166</sup> protocols and procedures<sup>167</sup> aimed at supporting stakeholders to detect, identify and protect victims, as well as coordinating efforts in the fight against human trafficking.<sup>168</sup> Most countries adopted guidelines aimed at companies in a variety of sectors<sup>169</sup>, or at members of the judiciary<sup>170</sup> and law enforcement authorities.<sup>171</sup> In collaboration with a university and experts from other Baltic Sea States, Estonia adopted two guidelines, "Navigating through your supply chain – Toolkit for prevention of labour exploitation and trafficking" and "Normative Framework Guide – Responsibility of Businesses Concerning Human Rights, Labour Exploitation and Human Trafficking", targeting companies using low-skilled migrant workers. Sweden published the "Children in international human trafficking and exploitation" guidelines for professionals in the health sector. Spain adopted the "Guidelines on criteria for judicial action in cases of trafficking in human beings" targeting members of the judiciary, while Georgia adopted two different sets of guidelines for law enforcement and border authorities, "Guideline for the Law Enforcement on the Investigation and Prosecution of Trafficking Cases and Treatment with Victims and Statutory Victims of THB" and "Guidelines on Identification of THB Victims at the Border of Georgia". Moreover, in 2016, Cyprus adopted the Manual for the Handling of victims of trafficking (National Referral Mechanism). This Manual that was circulated to all the competent Services, describes step by step the procedure that each State Service should follow in order to refer a presumed victim and provide support and protection to the victim throughout the criminal procedure. In Luxembourg, a confidential roadmap on the identification and referral of (presumed) victims was finalised in 2016 (revised in 2018) by the Monitoring Committee on the Fight Against Trafficking in Human Beings and made available to its members. Finally, Croatia developed a **Protocol on Integration/Reintegration of Victims of Trafficking in Human Beings**, to define the procedures and the bodies with responsibilities for the integration/reintegration of persons in the society. Finally, Georgia adopted **Standard Operation Procedures (SOPs)** for bodies responsible for the integration and reintegration of victims, as well as for investigators and prosecutors.

### **Materials and instruments for competent authorities**

Several EU Member States produced a variety of information materials and instruments to support relevant authorities to detect, identify and protect (presumed) victims of human trafficking,<sup>172</sup> such as **information and technical booklets**.<sup>173</sup> France published a factsheet on the trafficking of minors, for generalist police and gendarmerie investigation services and magistrates, to facilitate the identification of child victims, as well as a technical sheet on protecting victims of trafficking in human beings for public prosecutors, on the specific rights of victims of human trafficking. Czech Republic and Slovenia each

165 FR, NL, SL, PT and NO.

166 BE, CY, EE, ES, IT, LT, LU, PT, SE, SK and GE.

167 ES, HR, SK and GE.

168 EE, ES, HR, IT, LU and GE.

169 EE, SE.

170 BE, ES.

171 BE, EE and GE.

172 BE, CZ, DE, FI, FR, LU, LV, SI, SE, SK.

173 DE, FR, LU, SK.

released a manual, in 2017 and 2016, respectively. Portugal launched two awareness-campaigns at regional level, as well as the framework of Local Safety Audits, which aimed to increase the safety of the population through the prevention of juvenile delinquency and the elimination of criminal risk factors (including trafficking in human beings). Manuals released by the Ministry of the Interior of Czech Republic and the one published by the Government of Slovenia were intended to support the identification of victims and guide the assistance provided to them. In Belgium, the federal government distributed **leaflets** to the banking and medical sectors, in order to inform these target groups about indicators of trafficking in human beings. Latvia produced an **investigation tool for law enforcement and checklist for labour inspectors**, as well as a **toolkit** for the prevention of labour exploitation and trafficking. In Cyprus, the Police has issued an ‘Identification of Victims of Human Trafficking Manual’ to assist police officers to screen and identify victims of trafficking based on international indicators of victimization and human trafficking. The manual covers all necessary areas needed when dealing with a (possible) victim of trafficking

### Parliamentary activity

Trafficking in human beings was discussed regularly by several national parliaments.<sup>174</sup> In Sweden, in addition to **debates on the policy changes** and government bills, human trafficking was often discussed in relation to prostitution, migration and the conditions of migrant workers and unaccompanied minors. Additionally, the subject was raised in **Members of Parliament motions** in both Sweden and Austria. A recurring motion in Sweden called for the extension of victims’ right to apply for a recovery period to actors other than chief investigators. In 2016, the Greek Parliament established a Parliamentary Subcommittee on Combating Trafficking and Human Exploitation under the Special Standing Committee on Equality, Youth and Human Rights.

### Media coverage and reports

The media in some EU Member States and Georgia covered topics related to trafficking in human beings,<sup>175</sup> with specific cases of trafficking in human beings often

making **media headlines**. In Sweden, media coverage of trafficking in human beings for sexual purposes was dominant, while media outlets in Finland reported more frequently on cases of trafficking in human beings for labour exploitation. In Ireland, human trafficking was covered frequently by media outlets, with an investigative article in the UK’s Guardian newspaper, on the exploitation of migrant workers in the Irish fishing industry, taken up by Irish national media and prompting the establishment of an inter-departmental task force to investigate the extent of exploitation of non-EEA workers employed in the Irish fishing fleet. In Lithuania, human trafficking was the subject of a **documentary film** and a two-part documentary miniseries, ‘Modern Slavery’, on the exploitation of third-country nationals in Lithuanian transport and logistic companies. In Germany, for instance, documentaries outlined how the Nigerian “Black Axes” were able to gain ground there. Other documentaries mirrored the recently emerging problem of Vietnamese children and juveniles who went missing. Although all of the specifications of trafficking in human beings were subjected in media coverage and reports, sexual exploitation still prevails with labour exploitation significantly rising

Media attention for trafficking in human beings was often triggered by the publication of reports on victims’ situations. These reports usually presented the overall situation of human trafficking and were typically published by international entities such as the European Institute for Crime Prevention and Control (HEUNI), the GRETA, or by national institutions such as the Federal Migration Centre Myria in Belgium, the Consultative Commission on Human Rights of the Grand Duchy of Luxembourg (CCDH) or the Irish Human Rights and Equality Commission (IHREC). In several cases, reports resulted from specific inquiries and investigations. In Belgium, a report on the victims of “loverboys” (i.e. recruiters using seduction techniques) led to the earlier mentioned adoption of an addendum to the general NAP regarding the protection of minor victims of trafficking. In Latvia, for example, a report presented research findings on the modalities of recruitment for the purpose of workforce exploitation, while Sweden saw the publication of the report, “They will always find me”.<sup>176</sup>

174 AT, CY, DE, EL, SE.

175 BE, DE, FI, IE, LT, SE, NO and GE.

176 County Administrative Board of Stockholm, “They will always find me” – A study of trafficking and the living conditions of vulnerable children, 2019, [https://www.nmtsverige.se/sites/default/files/r2019-18-they\\_will\\_always\\_find\\_me.pdf](https://www.nmtsverige.se/sites/default/files/r2019-18-they_will_always_find_me.pdf), last accessed on 28 February 2022.

# 2. DETECTION AND IDENTIFICATION



## 2.1. OVERVIEW OF THE DETECTION AND IDENTIFICATION OF THIRD-COUNTRY NATIONALS (PRESUMED) VICTIMS OF TRAFFICKING IN HUMAN BEINGS

The concepts of detection and identification were introduced into EU law by the **Anti-trafficking Directive**.<sup>177</sup> **Detection** refers to the process of identifying a possible situation of human trafficking.<sup>178</sup> This can happen as part of a broader procedure or measure, for example, as part of a standard border control procedure, a medical visit, or even at the workplace, or as part of a deliberate detection mechanism, for example when a victim notifies their presence to the relevant authorities, as part of a law enforcement investigation into trafficking, or through the work of NGOs specialised in supporting victims of trafficking.

**Detection** may be followed by **identification**, which is the formal confirmation that the detected person(s) can be considered a presumed victim of trafficking according to the competent authorities of the EU Member States or Norway. This formal identification of the victim often then entitles the victim to different forms of support or to apply for authorisation to remain on the territory of the country where they were identified.

Not all countries have a clear **distinction** in place between detection and identification. Table 1 shows that these two steps may not necessarily be considered separate phases. Indeed, some countries *de facto* make no distinction at all and the same authorities are responsible for both detection and identification of (presumed) victims, while others, despite the absence of a formal distinction, have more organisations competent to detect situation of human trafficking (than to identify them). While the majority of countries that formally distinguish between detection and identification have several authorities competent in the area of detection, they mostly entrust responsibility for identification to one sole authority. Only Estonia, Finland, Germany, Hungary and Italy have several authorities with competence to both detect and identify. In Cyprus Luxembourg and Slovenia, several authorities are responsible for the detection of (presumed) victims, but only one law enforcement body is competent to formally identify victims of trafficking in human beings. The Prosecutor General, in Greece, and the public prosecutor, in Belgium, are respectively the only competent authority for the identification of victims.

**Table 1: Overview of detection and identification in EU Member States, Norway and Georgia**

No formal distinction between detection and identification	
The same authorities are involved in detection and identification	CZ, SE, SK and NO
Multiple authorities can detect victims, but only a few can identify them. The two phases coincide when the authority that detects the presumed victim is also competent to identify	AT, FR, LV, NL, PT and GE
Any authority or organisation can informally detect a situation of human trafficking, whereas only a few authorities or one authority is competent to identify	IE, FR, NL
Formal distinction between detection and identification	
Multiple authorities are competent to detect victims, but only one authority is responsible for identification	BE, BG, CY, EL, ES, HR, LT, LU, MT, SI
Multiple authorities can detect victims, but only a few can identify them. The two phases coincide when the authority that detects the presumed victim is also competent to identify	EE, PL
Multiple authorities are competent for both detection and identification	CZ, DE, FI, HU, IT

<sup>177</sup> Directive 2011/36 on preventing and combating trafficking in human beings and protecting its victims and replacing Council Framework Decision 2002/629/JHA, Articles 11(2), 11(5), 12(2) and 12(3).

<sup>178</sup> EMN Glossary, [https://ec.europa.eu/home-affairs/pages/glossary/detection-victim-trafficking-human-beings\\_en](https://ec.europa.eu/home-affairs/pages/glossary/detection-victim-trafficking-human-beings_en), last accessed on 26 January 2022.



## 2.2. AUTHORITIES COMPETENT TO DETECT AND IDENTIFY THIRD-COUNTRY NATIONALS WHO ARE (PRESUMED) VICTIMS OF TRAFFICKING OF HUMAN BEING

The authorities involved in the detection and identification of third-country nationals who are (presumed) victims of trafficking in human beings vary from one Member State to another. While a variety of authorities are competent to detect (presumed) victims, identification is usually carried out by a limited number of authorities.

**Law enforcement agencies** are competent to both detect and identify (presumed) victims in all countries (Table 2). In some countries, these include the public prosecutor.<sup>179</sup> **Border guards, asylum and migration services** are usually competent to detect and - to a lesser extent - identify. Finally, **labour inspectorates and NGOs** play an important role in detection in most countries, with labour inspectors also competent to identify presumed victims of trafficking in over half of the countries. In countries where no formal distinction is made between

detection and identification (Table 1), the same authorities are responsible for both.

While those public authorities are competent to identify victims in most EU Member States, Norway or Georgia there are some exceptions. Italy, for example, also allows health workers, asylum officers, reception centres and the IOM to identify cases of trafficked persons, although only the police can determine and verify their identity. In Germany, specialised counselling centres can also identify them, while the National Assistance System for Victims of Trafficking in Human Beings is competent to identify in Finland. Other organisations involved in identification include the Social Welfare Services in Cyprus, the Social Insurance Board in Estonia, the Agency for State Care and the Permanent Group<sup>180</sup> in Georgia.

**Table 2: Organisations competent to detect and identify third-country nationals who are (presumed) victims of trafficking in human beings**

Organisations and authorities	Competent to detect	Organisation/authority receives training on detection	Competent to identify
<b>Police/provincial police directorates</b>	AT, BE, BG, CY CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, LU, LV, MT, NL, PL, PT, SE SI, SK and NO, GE	AT, BE, BG, CY, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, LU, LV, MT, NL, PL, PT, SE, SI, SK and NO, GE	AT, BG, CY, CZ, DE, <sup>181</sup> EE, ES, FI, FR, HR, HU, IE, IT, LT, LU, LV, MT, NL, PL, PT, SE SI, SK and NO, GE
<b>Border guards</b>	BE, BG, CY CZ, EE, EL, ES, FI, FR, HR, IE, LT, LU, LV, MT, NL, PL, PT, SE, SI, SK and NO, GE	BE, BG, CY CZ, <sup>182</sup> EE, EL, ES, FI, FR, HR, IE, LT, LU, LV, MT, NL, PL, PT, SE, SI, SK and NO, GE	CZ, ES, <sup>183</sup> FI, FR, IT, NL, PL, PT, SE, SK and NO,
<b>Labour inspectors</b>	BE, BG, CY CZ, DE, EE, ES, FI, FR, HR, HU, IE, LT, LU, LV, MT, NL, PT, SE, SI, SK and NO, GE	AT, BE, BG, CY, DE, EE, ES, FI, <sup>184</sup> FR, HR, IE, LT, LU, LV, MT, NL, PT, SE, SI, SK and NO, GE	EE, FR, HU, NL, PT, SE, SK and NO
<b>Migration services</b>	BE, BG, CY, CZ, DE, EE, ES, FI, FR, HR, HU, IE, LT, LU, LV, MT, NL, PL, PT, SE, SI, SK and NO, GE	BE, BG, CY, DE, EE, ES, FI, FR, HR, IE, LT, LU, LV, MT, NL, PL, PT, SE, SI, SK and NO, GE	CZ, FI, PT, SE, SK and NO
<b>Asylum case officers</b>	BE, BG, CY, CZ, EE, ES, FI, FR, HR, HU, IE, IT, LT, LU, LV, MT, NL, PT, SE, SI, SK and NO, GE	AT, BG, CY, DE EE, ES, FI, FR, HR, IE, IT, LT, LU, LV, MT, NL, PT, SE, SI, SK and NO, GE	CZ, DE, FI, IT, PT, SE, SK and NO
<b>General practitioners</b>	BE, CZ, FI, FR, HR, IE, LU, NL and NO, GE	CZ, EE, FR, HR, NL, SE, SI and NO, GE	HR, SE
<b>Other health workers</b>	BE, EL, FI, FR, HR, IE, IT, LU, LV, NL, SE, SK and GE	AT, CZ, EL, FI, FR, HR, IE, IT, LV, MT, NL, SE, SK and GE	CZ, HR, IT, SE, SK
<b>Employers</b>	BE, FI, FR, HR, IE, LV, LU, NL, SE	EE, FI, HR, IE, LV, NL <sup>185</sup>	HR

179 BE, CZ, EE, GE for both detection and identification.

180 The Permanent Group is composed of three NGOs and two international organisations.

181 In DE, the identification of third-country nationals who are (presumed) victims is carried out by only one authority which differs depending on the state (i.e. police, civil society organisations, specialised counselling centres). At federal level, however, competency for the formal identification of the victim lies solely with the specially commissioned case-officers for human trafficking.

182 In Czech Republic, the foreign Police is the equivalent to the Border Guard but has a scope of activities wider than border security (detection of irregular foreign-nationals, application of punitive measures against foreigners in violation of the Foreigner Act, investigation of crimes committed in connection with crossing the state border and cross-border crime, etc.).

183 In Spain, border guards tasked with border control are part of the National Police Corps.

184 Voluntary training.

185 Training is voluntary.

Organisations and authorities	Competent to detect	Organisation/authority receives training on detection	Competent to identify
<b>Trade unions</b>	BE, FI, FR, IE, LT, LV, LU, NL, SE, SI	ES, FI, IE, SI	
<b>Civil society organisations</b>	BE, CY, CZ, DE, EE, EL, ES, FI, FR, HR, IE, LT, LU, LV, MT, NL, PL, PT, SE, SI, SK and NO, GE	CZ, DE, EE, EL, ES, FI, FR, HR, IE, MT, LU, LV, NL, PL, PT, SK, SI and NO, GE	CZ, DE, ES, LV, SE, SK and NO, GE
<b>Public prosecutor</b>	BE, CY, EE, FI, FR, HR, IE, NL, PL, SE and GE	CY, CZ, FI, HR, NL, SE, and GE	BE, CY, CZ, EE, EL, FI, HR, PT, SE and GE
<b>National Agency or Commission</b>	FI <sup>186</sup> and GE	FI <sup>187</sup> and GE	FI <sup>188</sup> and GE

Most of the public and non-public authorities that are competent to detect third-country nationals (presumed) victims of human trafficking receive specific training. In all EU Member States, Norway and Georgia police/provincial police directorates – as the primary authorities to come into contact with (presumed) victims of trafficking – are specifically trained in that task. Other authorities competent to detect (presumed) victims, such as border guards, labour inspectors, migration services and asylum case officers also receive training, as do other organisations, such as NGOs. Luxembourg organises basic training courses ('Trafficking in Human Beings') for municipal and public servants, as well as NGO social workers, while Poland conducts training for people working in consular

positions. Norway introduced an online course for investigators, including a module on human trafficking. Interestingly, general practitioners in Estonia and Slovenia and other health workers in Malta are trained, despite not being competent to detect victims, and the same is true of employers in Estonia and trade unions in Spain.

In some cases, organisations that are competent to detect have the option to participate in voluntary training (which means that such training is not always followed, which may lead to victims going unnoticed). This is the case for general practitioners,<sup>189</sup> other health workers,<sup>190</sup> employers,<sup>191</sup> trade unions<sup>192</sup> and civil society organisations.<sup>193</sup>



## 2.3. MEASURES TO DETECT AND IDENTIFY THIRD-COUNTRY NATIONALS WHO ARE (PRESUMED) VICTIMS OF TRAFFICKING IN HUMAN BEINGS

The following section provides an overview of the measures in place to detect and identify third-country national (presumed) victims of human trafficking, as well as the specific measures in place for certain categories of third-country nationals. While all countries have measures in place to detect third-country nationals who are (presumed) victims of human trafficking, half have also adopted identification measures.<sup>194</sup> Finally, this section presents the different referral mechanisms adopted by the EU Member States, Norway and Georgia aimed to facilitate early identification, assistance and support for victims, in cooperation with relevant support organisations.

### 2.3.1. Detection measures

Detection refers to the process of identifying a possible situation of human trafficking.<sup>195</sup> EU Member States, Norway and Georgia use a variety of national procedures and measures to detect third-country nationals who are (presumed) victims of human trafficking. The most commonly deployed measure is facilitating self-reporting of the crime, which is in place in the majority of countries,<sup>196</sup> followed by awareness-raising campaigns,<sup>197</sup> using indicators to detect victims,<sup>198</sup> intelligence gathering,<sup>199</sup> and proactive screening mechanisms during asylum<sup>200</sup> and migration<sup>201</sup> procedures.

186 National Assistance System for Victims of Trafficking in Human Beings.

187 Ibid.

188 Ibid.

189 BE, FI, IE, LU, NL.

190 BE, FI, LU, NL.

191 BE, LU (training for employers is being developed and planned for the near future), NL.

192 BE, LT, LU (training for trade unions is being developed and planned for the near future), LV.

193 BE.

194 BE, BG, CZ, DE, EL, ES, FI, HR, IE, IT, LT, LU, MT, PL, SE, SI, SK.

195 EMN Glossary, [https://ec.europa.eu/home-affairs/pages/glossary/detection-victim-trafficking-human-beings\\_en](https://ec.europa.eu/home-affairs/pages/glossary/detection-victim-trafficking-human-beings_en), last accessed on 26 January 2022.

196 AT, BE, BG, CY, CZ, DE, EE, EL, ES, FI, FR, HR, HU, IE, LU, LV, NL, PT, SE, SI, SK and NO, GE.

197 AT, BE, BG, CZ, EE, EL, ES, FI, FR, HR, HU, IE, LU, LV, NL, PT, SE, SI, SK and NO, GE.

198 AT, BE, CY, CZ, EL, ES, FI, HU, IE, LT, LU, LV, NL, PL, PT, SE, SI, SK and NO, GE.

199 BE, BG, CY, CZ, EE, EL, ES, FI, FR, HU, IE, LV, LU, NL, PT, SE, SK and NO, GE.

200 AT, BE, BG, CY, CZ, EE, EL, ES, FI, FR, HU, IE, IT, LT, LV, LU, NL, PL, PT, SI, SK and GE.

201 BG, CY, CZ, EE, FI, HU, LU, LV, NL, PT, SI, SK and GE.

## Self-reporting

Sixteen EU Member States as well as Norway and Georgia have set up a special hotline (available to victims and to the general public) to report cases of trafficking in human beings, with a nationwide telephone number.<sup>202</sup> However, as third-country nationals may not always consider themselves victims of trafficking in human beings, some EU Member States also allow NGOs,<sup>203</sup> labour inspectorates,<sup>204</sup> and a specialised authority to report cases of trafficking.<sup>205</sup> Victims themselves can report the situation by submitting a complaint online,<sup>206</sup> sending an email to the relevant authorities,<sup>207</sup> or presenting themselves in person to the police.<sup>208</sup> The official police website in the Netherlands includes a specific page for victims of human trafficking with explanation on how to seek contact with the police, and on the National Referral Site for Human Trafficking a victim can find information to come in to contact with care coordinator or police. In Poland, victims can send an email to both the police and the border guard. In Estonia, it is possible to lodge a complaint with the migration advice service of the Police and Border Guard, the Labour Inspectorate, or with the Prosecutor's Office, while in Croatia and Georgia it is possible to reach out to contact points in asylum reception centres.<sup>209</sup> In Portugal, (presumed) victims can contact the five Multidisciplinary Teams for the Assistance and Support to victims of Trafficking in Human Beings (managed by the Family Planning Association and part of the NRM. In Cyprus and Lithuania, the special hotline is open to the wide public to make reports, submit complaints and provide information concerning issues related to human trafficking. **Self-reporting is encouraged** in most EU Member States, Norway and Georgia<sup>210</sup> through outreach campaigns,<sup>211</sup> dissemination of information materials (flyers, leaflets, brochures),<sup>212</sup> NGO outreach in the field,<sup>213</sup> and advice from migration services.<sup>214</sup> It is also offered as an option following police controls and labour inspections.<sup>215</sup>

### Box 3: Good practices in encouraging self-reporting

In Finland, the occupational safety and health (OSH) authorities provide small information cards on trafficking in human beings and labour exploitation to workers or leave these available at workplaces. This allows workers who may be victims to recognise themselves and contact the National Assistance System for Victims of Trafficking in Human Beings, Victim Support Finland or other relevant organisations.

Similarly, in Lithuania, the State Labour Inspectorate and the police, together with specialised NGOs, perform regular inspections in economic sectors

prone to trafficking in human beings and exploitation of third-country nationals. During these inspections, third-country workers receive specialised leaflets explaining the crime of human trafficking, how to report suspicious cases, and where to receive specialised assistance or advice.

## Awareness-raising campaigns

Third-country nationals may not always consider themselves victims of trafficking in human beings, for example, when they are made to work in conditions they do not necessarily recognise as a form of exploitation or abuse. Some EU Member States and Georgia reported that victims may also be very reluctant to come forward and cooperate with competent authorities, as they are concerned about the consequences for themselves (e.g. deportation, reliving their trauma during criminal proceedings) or their family at home (e.g. retaliation).<sup>216</sup> Most EU Member States, Norway and Georgia use **public awareness campaigns** to inform the public,<sup>217</sup> make victims aware, and incentivise them to seek assistance and report their situation. These campaigns may take the form of information days and conferences,<sup>218</sup> and dissemination of information material.<sup>219</sup> Estonia, Luxembourg, the Netherlands, Poland and Georgia launched annual webinars, podcasts and advertisements on national TV and radio, while Ireland, Latvia and Luxembourg set up a website with information and contact details for relevant services.

### Box 4: Raising awareness and providing training to authorities

The Netherlands launched its programme 'Together Against Trafficking in Human Beings' in 2018. Involving a variety of authorities and organisations working to combat trafficking in human beings, the programme seeks to strengthen cooperation between authorities and other actors (e.g. healthcare facilities and shelters), making the fight against trafficking a shared priority centred on good practices and lessons. In the same year, the Human Trafficking Academy was launched by the Coordination Centre against Trafficking in Human Beings (CoMensha), with a view to concentrating knowledge and relevant material, notably for frontline practitioners.

## Using indicators

Indicators describe key features of a potential trafficking situation and are used by about half of the EU Member States, Norway and Georgia to facilitate the detection of

202 AT, BE, BG, CY, CZ, DE, EE, EL, ES, FI, HR, IE, LT, LV, PL, SI, SK and NO, GE.

203 BE, CY, CZ, DE, EL, ES, HR, LT, LU, LV, SK.

204 BE, CZ, EE, ES, IE, LT, LU, SK and GE.

205 BE, CZ, EL, LU, PT, SK.

206 CZ, EL, FI, HR, SI, SK.

207 CZ, EE, EL, HR, LT, LU, PL, SK.

208 BG, CZ, DE, EE, ES, FR, IE, HU, IT, LU, LV, NL, PL, SE, SI, SK.

209 EE, HR and GE.

210 AT, BE, BG, CY, CZ, DE, EE, EL, FI, HR, IE, LU, LV, SI, SE, SK and NO, GE.

211 AT, BG, CY, CZ, ES, FI, IE (including by SMS), LT, LU, PL, SE, SK and GE.

212 AT, BE, CY, CZ, ES, FI, HR, HU, LT, LU, LV, SE, SI, SK and GE.

213 CY, CZ, FI, FR, HU, SE, SK and NO.

214 CZ, EE, SE, SK, NO.

215 BE, CZ, FI, IE, LT, SK and GE.

216 BE, IE, LT, LU, NL, SE.

217 AT, BE, CY, CZ, DE, EE, EL, ES, FI, FR, HR, IE, LT, LU, LV, MT, NL, PL, PT, SE, SI, SK and NO, GE.

218 AT, DE, EE, HR, LV, NL, PL, PT and GE.

219 BE, CY, CZ, DE, EE, ES, FI, FR, HR, HU, LT, LU, LV, NL, PL, SE, SK and GE.

potential victims by authorities.<sup>220</sup> These indicators are sometimes based on international standards,<sup>221</sup> such as those included in the UN Global Initiative to Fight Human Trafficking (UN-GIFT) and those resulting from a joint European Commission-ILO project.<sup>222</sup> Few EU Member States and Georgia systematically collect information when investigating human trafficking cases, and this allows them to update existing indicators or identify new ones.<sup>223</sup>

### Box 5: Challenges in using indicators

Key barriers identified included the lack of harmonised indicators to detect (presumed) victims, which leads to fragmented detection procedures and case management.

### Box 6: Good practices in using indicators

Finland reports on the 'Steps for Dialogue-Based Identification' project, implemented by the civil society organisation, *Pro-tukipiste*. The project established a list of indicators to recognise trafficking in human beings. In addition to its use in training, the list can be used by potential victims as a checklist.<sup>224</sup> The report adds that, according to Victim Support Finland, instead of third parties using indicators to detect victims, certain indicators could be shared with potential victims directly for self-assessment.<sup>225</sup>

Italy reported that the training of medical staff, including the use of health and other indicators, had helped in detecting potential cases of female victims of trafficking in human beings, as well as encouraging victims' self-reporting to medical professionals.

In 2011, Bulgaria, France, Greece, the Netherlands, Romania and Spain participated in the project, 'Development of Common Guidelines and Procedures on Identification of Victims of Human Trafficking',<sup>226</sup> which resulted in the establishment of a manual for frontline detection of victims of human trafficking. It contained a collection of indicators for different groups of victims and exploitation situations.

## Intelligence gathering

In most EU Member States, Norway and Georgia **competent authorities gather intelligence** to dismantle organised criminal networks engaged in human trafficking and to detect (presumed) victims. Intelligence gathering is mostly carried out by law enforcement authorities<sup>227</sup> and labour inspectorates,<sup>228</sup> or by joint cooperation activities between these entities.<sup>229</sup> In addition to law enforcement authorities and labour inspectorates, intelligence gathering in Georgia is carried out by the Ministry of Finance and

the Financial Monitoring Service. Intelligence gathering is also undertaken by monitoring locations where victims may be exploited (e.g. bars, night clubs),<sup>230</sup> and by checking the internet<sup>231</sup> and media advertising.<sup>232</sup>

### Box 7: Good practices in intelligence gathering

The Netherlands police are implementing a system, 'Cross-domain Work Process on Trafficking in Human Beings', which is designed to use intelligence in the detection of human trafficking and the victims of human trafficking. It is a bridge between intelligence and investigation procedures. This system uses knowledge-based models to translate criminal laws into factual indicators. The indicators are systematically organised and receive 1, 2 or 4 points. All available information in relation to human trafficking is scored. The sources are primarily the police registration systems (in which unrelated information indicators for human trafficking might be hidden) and information provided in structural meetings with other organisations involved in law enforcement, combating trafficking in human beings or migration processes. More sources will be added, including open sources such as news sites and websites where prostitutes can advertise. On its own, certain information can be irrelevant, but combined with other pieces of information found in other sources it can reveal a high probability of victimhood. The pieces of information are scored together and can add up to an intelligence report that might require immediate action or further investigation by police. With this method, (presumed) victims might be detected in police reports not related to trafficking in human beings or on websites advertising sexual services. This can lead to investigations and the extraction of the (presumed) victim from the trafficking situation.

In Lithuania, good practices in detecting trafficking situations in the labour market were reported by an expert group within the State Labour Inspectorate, endowed with investigative powers concerning the control and prevention of trafficking in human beings for forced labour, as well as through joint inspections and 'raids' carried out by the Inspectorate and the police in targeted economic sectors. The comparable establishment of 'Labour Crime Centres' in Norway seeks to counter labour crime and enable stronger interagency cooperation on work related crimes, and thus also increase attention on the detection of forced labour. In Estonia, national police are deploying an IT tool to screen internet-based advertisements for sexual services, and then approaching those persons to determine whether they are in fact cases of trafficking in human beings for sexual exploitation or other related crimes (e.g. forced labour).

220 AT, BE, CY, EL, FI, HR, IE, LT, LU, LV, NL, PL, PT, SE, SI, SK and NO, GE.

221 CY, IE, LU, LV.

222 ILO and European Commission, Operational indicators of trafficking in human beings, 2009, [https://www.ilo.org/wcmsp5/groups/public/@ed\\_norm/@declaration/documents/publication/wcms\\_105023.pdf](https://www.ilo.org/wcmsp5/groups/public/@ed_norm/@declaration/documents/publication/wcms_105023.pdf), last accessed on 26 January 2022.

223 LV, NL, SE and GE.

224 *Pro-tukipiste*, Indicators of Human Trafficking, [https://protukipiste.fi/wp-content/uploads/2021/11/Indicators-of-Human-Trafficking\\_uusi.pdf](https://protukipiste.fi/wp-content/uploads/2021/11/Indicators-of-Human-Trafficking_uusi.pdf), last accessed on 26 January 2022.

225 EMN National Report Finland.

226 See: [https://ec.europa.eu/anti-trafficking/development-common-guidelines-and-procedures-identification-victims-trafficking-coguideid-thb\\_en](https://ec.europa.eu/anti-trafficking/development-common-guidelines-and-procedures-identification-victims-trafficking-coguideid-thb_en), last accessed on 26 January 2022.

227 BE, BG, CY, CZ, DE, EE, EL, ES, FI, HR, IE, IT, NL, LU, LV, PT, SE, SK and NO, GE.

228 BG, CZ, EL, ES, HU, LU, LV, SE, SK and GE.

229 BG, CZ, EL, ES, FI, HR, LU, LV, NL, SE, SI, SK.

230 HR, LV and GE.

231 BE, EE, FI, HR, NL and GE.

232 EE, HR.



## Screening in asylum and migration procedures

To detect third-country national (presumed) victims of human trafficking, most EU Member States and Georgia make use of **proactive screening mechanisms during the asylum<sup>233</sup> and legal migration procedures,<sup>234</sup>** often as part of the vulnerability assessment.<sup>235</sup> For instance, in Belgium, Croatia and Lithuania asylum procedures, the registration form allows to indicate whether an asylum-seeker may be a victim of human trafficking. In Hungary, guardians and competent authorities in charge of child protection cooperate closely on unaccompanied minor cases.

### Box 8: Good practices in proactive screening mechanisms during asylum procedures

In the Netherlands, the Immigration and Naturalisation Service (IND) has developed working instructions to help asylum case officers to detect potential cases of human trafficking. The IND provides contact points for trafficking in human beings in every application centre. The contact points compile all of the necessary information and share it with the police, while other organisations (in line with the General Data Protection Regulation (GDPR)) will only receive an indication that the applicant may be a victim of human trafficking.

### Box 9: General challenges in detection

EU Member States, Norway and Georgia, reported on the challenges in detecting potential victims of trafficking, despite having specific measures in place. The lack of resources for training and capacity-building was almost universally viewed as an obstacle to detection, as concerned stakeholders did not possess the necessary skills and abilities to determine whether a person could be a victim.

Several EU Member States and Georgia cited an overall lack of capacity at national and local level in detecting possible situations of trafficking in human beings.<sup>236</sup> Georgia reported the need to increase the capacity of law enforcement, noting that cooperation

with the private sector could enhance detection of various forms of human trafficking. Detecting potential victims among vulnerable groups, such as asylum seeker and minors (both accompanied and unaccompanied) was also deemed challenging. Slovak Republic has so far detected and identified very few cases, due to its position as a transit country, which makes the detection of victims even more difficult, since their actual exploitation usually takes place in the destination country. These victims are often very vulnerable and afraid or mistrustful of government authorities. Finally, they are difficult to access, especially when relevant authorities have no information about them or if these persons have a valid authorisation to stay in the country.

France and Luxembourg commented on the increasing phenomenon of ‘indoor’ victimisation, where victims are recruited (mostly through social media) and exploited online (through adverts and contact through secured messaging apps), which makes them very difficult to detect. That trend has been exacerbated by COVID-19. Luxembourg reported that it was increasingly difficult to distinguish between cases of labour exploitation (under the Labour Code) and offences of trafficking in human beings for the purposes of labour exploitation (under the Criminal Code).

In countries such as France, where prostitution is illegal, identification is further complicated because competent authorities may determine that the person is a sex worker who is willingly offering their services, rather than a victim who is being sexually exploited. In such cases, the person risks not being identified as a victim, and thus losing access to justice, protection and support.

### 2.3.2. Specific measures in place for detection

In addition to the general detection measures that apply to all victims of trafficking in human beings, several countries have adopted specific measures for certain categories of third-country nationals (Table 3).

**Table 3. Specific procedures to detect third-country national (presumed) victims of trafficking in human beings**

Procedures for (presumed) victims	Detection
Within the asylum procedure	AT, BE, CY, EE, DE, EL, ES, FI, IE, HU, IT, LT, LU, NL, PL, PT, SE, SK and NO
Within the legal migration procedure (e.g. seasonal workers, domestic workers, au pairs, students)	AT, CY, FI, IT, LU, SE, SK, NL, PT and NO
Voluntary returnees	CY, HU, IE, IT, LT, MT, NL, PT and NO
Falling under other categories included in the definition of vulnerable persons adopted for this study (e.g. minors, unaccompanied minors, disabled people, elderly people, pregnant women)	BE, CY, EL, ES, FI, HR, HU, IE, IT, LU, LT, PT, SE, SK, NL and NO
Who are in an irregular situation	CY, FI, HR, IT, NL, SK and NO

233 AT, BE, BG, CY, CZ, DE, EE, EL, ES, FI, FR, IE, HU, IT, LT, LU, LV, NL, PL, PT, SE, SI, SK and GE.

234 BG, CY, CZ, EE, FI, HU, LU, LV, NL, PT, SE, SI, SK and GE.

235 BE, CY, EE, IE, LT, LU, SE.

236 BE, FI, IE, LT, SE and GE.

Several EU Member States and Norway have put in place specific measures to detect (presumed) victims in the **asylum procedure**,<sup>237</sup> which largely concerns proactive screening for vulnerabilities.<sup>238</sup> Italy uses a set of indicators when analysing asylum applications to detect possible cases of trafficking, while Sweden uses specific guidance and indicators developed and adapted for asylum and legal migration procedures. For instance, the guidance for asylum procedures focuses particularly on the identification of unaccompanied minors, women and other vulnerable groups. More specifically, guidance for personal interviews with unaccompanied minors includes questions aimed at identifying victims of human trafficking or vulnerability to such victimhood. In Spain, guidelines were developed at Madrid-Barrajas airport to assess whether foreign persons at arrivals who request international protection, may be in a situation of trafficking in human beings, so that they can be referred correctly within the International Protection Reception System. Several EU Member States also seek to detect potential victims as part of the residence permit procedures in the context of their **legal migration procedure**.<sup>239</sup> In Finland, authorities in charge of processing a residence permit application based on employment not only assess the purpose of entry, but also the applicant's ability to act outside the employer's sphere of influence and their understanding of the terms of employment or nature of work they intend to perform. Italy attaches a form to the application for a residence permit, with specific questions aimed at detecting indicators of exploitation. Finally, some EU Member States organise awareness-raising activities, sometimes specifically targeting certain categories of migrants.<sup>240</sup> Austrian embassies, for example, issues specific information leaflets for au pairs, while in Estonia the migration advisers of the Police and Border Guard Board organises information days where people can obtain information about working, studying and living in Estonia.

Several EU Member States and Norway pay particular attention to detecting (presumed) victims of human trafficking who are **voluntary returnees**.<sup>241</sup> In almost all of these EU Member States and Norway, voluntary return procedures for victims are carried out by the IOM, in cooperation with national authorities.<sup>242</sup> In Lithuania, IOM employees inform the victim of the opportunity to remain in the territory of Lithuania if a reflection period is granted.

Many EU Member States and Norway reported having specific procedures in place for children.<sup>243</sup> In some, a specific authority is responsible for minors found to be a possible victim of human trafficking, such as the Social Welfare Services in Cyprus, the Juvenile Prosecutor in Greece, the Tusla Child and Family Agency in Ireland (where the child is placed in care), and the Directorate of Children, Youth and Family affairs in Norway. In the Netherlands Unaccompanied Minors who are thought to be potential victims are placed in a protected shelter with

special care for (potential) victims of trafficking in human beings.

Finally, several EU Member States and Norway adopted specific detection measures for (presumed) victims of human trafficking who are in an **irregular situation**.<sup>244</sup> In Cyprus, all return related procedures, including detention, are immediately suspended, as soon as a (presumed) victim of human trafficking is detected. In the Netherlands, irregular migrants who are the victim or witness to a crime can safely report it without being prosecuted for their irregular situation. In Finland third-sector organisations often facilitate anonymous meetings between irregular migrants and the police. Victims can explain their situation and the police can advise them how to report the crime or otherwise proceed with the matter.

In Spain, Organic Law 8/2021 of 4 June 2021 on protection of children and teenagers against violence, establishes the obligation for protection centres to implement action protocols, the effectiveness of which will be evaluated, with specific action in the area of prevention, early detection and intervention in possible cases of abuse, sexual exploitation and trafficking in human beings whose victims are minors subject to protection measures and who reside in care centres

#### Box 10: Facilitating detection and identification of child victims

Originally developed in Iceland, the Children's Houses (*Barnahus*) in Sweden allow for different actors (police, prosecutors, social services, healthcare staff) tasked with investigating crimes against minors to collaborate more effectively. The *Barnahus* is a safe and child-friendly environment where child victims can report any type of crime without having to be directed to different authorities, and without having to repeat their statements (which can be extremely traumatising).

Georgia has established a psychological-social service centre for child victims of violence, based on the *Barnahus* model, under the Agency for State Care. During 2021, the centre operated as a pilot scheme in Tbilisi and Kutaisi.

### 2.3.3. Identification procedures

Detection is usually followed by identification, which is the confirmation that the detected person(s) can be considered a presumed victim of trafficking according to the competent authorities. However, not all countries have a clear distinction in place between detection and identification (see Section 2.1),<sup>245</sup> and four EU Member States do not have any identification measures in place.<sup>246</sup>

Many EU Member States,<sup>247</sup> reported having specific procedures in place to identify (presumed) victims of

237 BE, CY, DE, EE, EL, ES, FI, FR, HU, IE, IT, LT, LU, NL, PL, SE, SK and NO.

238 CY, DE, EE, EL, FI, FR, HU, IE, HR, IT, LT, LU, NL, SE and NO.

239 CY, FI, IT, NL, SE and NO.

240 AT, CY, EE.

241 CY, HU, IE, LT, MT, NL and NO.

242 AT, CY, IE, LT, MT, NL and NO.

243 BE, CY, EL, FI, HU, IE, LT, LU, NL, PT, SE, SK and NO.

244 CY, FI, IT, NL, SE, SK and NO.

245 AT, CZ, FR, HR, IE, LV, NL, PT, SE, SK and NO, GE.

246 BE, FR, HR, LT.

247 AT, BE, BG, CZ, DE, EE, EL, ES, FI, HU, IE, IT, LU, MT, PL, SE, SI.

trafficking in human beings. These are implemented by the police, the Public Prosecutor, or a combination of authorities and organisations. While having multiple authorities responsible for the identification of (presumed) victims is sometimes challenging, it can also be advantageous, as it reduces the chances that a victim will go unnoticed.

### Identification procedures by the police

In the majority of EU Member States, Norway and Georgia,<sup>248</sup> identification is carried out by the police, sometimes acting in tandem with other entities.

In Cyprus, Latvia, Luxembourg and Slovenia, police units specialised in combating trafficking in human beings are the sole competent authorities for identifying victims. In Luxembourg, this role is held by the ‘Search for Fugitives and Victim Protection’ Unit of the Judicial Police Department of the Grand Ducal Police. The Unit is informed of cases of (presumed) trafficking in human beings and collects evidence and indicators to investigate and decide whether to formally identify a presumed victim.<sup>249</sup> The Unit principally makes its decisions based on a list of indicators and/or victim testimony and is also responsible for victim protection. Similarly, in Cyprus, the Office of Combating Trafficking in Human Beings of the Cypriot Police is the competent authority for the identifying potential victims. This entity issued an ‘Identification of Victims of Human Trafficking Manual’ to assist police officers with the screening and identification of victims based on international indicators of victimization and human trafficking. In Latvia, the State police has established a specialised trafficking in human being and pimping unit which also gather evidence based on indicators, at least at pre-investigation stage. As soon as a person is identified as a victim of trafficking, she is referred to the relevant service provider. In Slovenia, identification is always carried out by the police’s Criminal Directorate, following a set procedure,<sup>250</sup> which provides a definition of the offence and a list of indicators, delineates the roles and tasks of state authorities and that of other relevant public bodies and organisations, and sets out assistance and protection measures. In Germany, some Länders have established Central Offices for trafficking in human beings (specialised police departments) which perform training and educational as well as coordination functions in order to combat the phenomenon.

In Bulgaria, the police are the sole competent authority for identification, which results from an investigation and the commencement of criminal proceedings (including a court decision).<sup>251</sup> The police are also the only authority competent for identification in Ireland, Malta,<sup>252</sup> and Spain,<sup>253</sup> where they are also responsible for border control. In Ireland more specifically, the first member of the police to encounter the potential victim will conduct a ‘reasonable grounds assessment’ to determine if the person is a victim of trafficking.

In Poland, formal identification is the responsibility of the police and of the Polish Border Guard, with both operating under the aegis of a common procedure.<sup>254</sup> Identification is based on recognition that a situation corresponds to the crime of human trafficking, irrespective of undertaking formal procedural steps, or whether the crime is classified differently at a later stage of criminal proceedings.

The police are also responsible for identification in Austria, at provincial police directorate level, by the Investigation Office 10 for Smuggling of Migrants and Human Trafficking. Selected civil society organisations, LEFÖ-IBF and MEN VIA are also competent to identify victims for the purpose of granting support. In each provincial police directorate, the task force, Investigation Office 10, exists within the provincial criminal intelligence service, reporting to the federal Criminal Intelligence Service Austria, which also supervises international police cooperation. Cases may be referred by other police officers, and the provincial criminal intelligence service decides whether it will take on the investigation or assist police stations in an advisory capacity.

In Slovakia, where the police are also one of the main responsible entities for identification, police collaborate with labour inspectorates (for cases of trafficking for labour exploitation). Inspections are carried out in business entities with a view to detect illegal employment, irregular stay of third-country nationals, and victims of trafficking in human beings. The businesses to be inspected are chosen by labour inspectorates.

### Box 11: Good practice: Building trust between (presumed) victims and the police

To overcome the challenge posed by potential mistrust of the police by vulnerable third-country nationals, Luxembourg separated the unit in charge of the investigation and the unit or authority responsible for protection and support. The latter does not question the victim’s statement but rather builds trust, which may lead to the victim sharing more (contextual) information that can then be communicated to investigating officers.

### Identification by a Public Prosecutor

In Greece, identification is carried out via an Act of Recognition of the competent prosecutor of the Court of First Instance for all (presumed) victims of trafficking in human beings. Identification may occur before or after the initiation of criminal proceedings for offences linked to trafficking.<sup>255</sup> In cases where identification precedes the criminal proceedings, the issuance of the Act of Recognition by the prosecutor requires a written assessment by two psychiatrists, psychologists or social workers, under Greek law. In Belgium, the public prosecutor is likewise the sole competent authority for identification as part

248 AT, BG, CY, CZ, DE, EE, ES, FI, FR, HR, HU, IE, IT, LT, LU, LV, MT, NL, PL, SE, SI, SK and NO, GE.

249 LU provided a list of 19 indicators used to investigate and inform the identification procedure. It reported that the Search for Fugitives and Victim Protection Unit also refers to the list of indicators established by the UNODC.

250 Manual on the Identification of Assistance to and Protection of Victims of Trafficking in Human Beings, adopted on 5 May 2016.

251 In accordance with the Anti-Trafficking in Persons Act and the Criminal Code of the Republic of Bulgaria.

252 Following Subsidiary Legislation 217.07 on Permission to reside for victims of trafficking or illegal smuggling.

253 According to the Framework Protocol for the Protection of Victims of Human Trafficking, from 2011, <https://violenciagenero.igualdad.gob.es/va/otrasFormas/trata/normativaProtocolo/marco/docs/ProtocoloTrataEN.pdf>, last accessed on 26 January 2022.

254 The ‘Algorithm of conduct for law enforcement officers in the case of identifying a human trafficking crime’ and the ‘Algorithm of identification of and procedure towards minor victim of trafficking in human beings for Police and Border Guard Officers’.

255 Trafficking in human beings, sexual intercourse with minors, or in front of them, abuse of minors, facilitating debauchery of minors, child pornography, enticing minors for sexual reasons, pimping, sexual intercourse with a minor for money.

of the special residence procedure for victims of human trafficking.

### Identification by multiple competent authorities and organisations

In Finland, pre-trial authorities (police, border guard) and prosecution authorities formally and automatically identify a victim when they initiate a pre-trial investigation in a crime of human trafficking the victim of which the person in question possibly is.<sup>256</sup> The Finnish Immigration Service formally identifies a victim when issuing a continuous residence permit for a particularly vulnerable victim of trafficking in human beings. In addition, the National Assistance System can identify a victim in case criminal proceedings cannot take place due to certain reasons such as to the fact that the crime has happened abroad, or it is not possible to bring the perpetrator to justice. Having multiple authorities to identify victims aims to prevent victims from ‘falling through the cracks’ in the identification procedure.

In Estonia, the identification of a victim is connected to a criminal proceeding and specific elements of the criminal offence in question. In addition to the Police and Border Guard Board, identification can be carried out by the Prosecutor’s Office or the Social Insurance Board. However, a presumed victim can be preliminarily identified by an organisation engaged in helping of victims of trafficking in human beings, which then reports its suspicion of the person’s victimhood to the Estonian Social Insurance Board.

In Italy, formal identification can be carried out by regional Anti-Trafficking Bodies, law enforcement (police, border force) and the judiciary. From the earliest stages of access to the asylum procedure, the utmost attention is paid to the identification of indicators, through the analysis of the applicant’s story and behaviour. Actors detecting suspected cases of trafficking in human beings can refer the individual to the regional Anti-Trafficking Body, which carries out an investigation into the individual’s circumstances, before deciding on formal identification and related support and protection measures, in accordance with Legislative Decree 286/1998, Article 18. When the situation of grievous exploitation and violence is determined within police operations, investigations or

criminal proceedings, the Police chief issues the residence permit only once the opinion of the Public Prosecutor has been obtained.

### Box 12: Challenges in identification

Similar to detection, several EU Member States<sup>257</sup> reported limited capacity for identification of specific forms of human trafficking (e.g. identification of online trafficking) at national and local level, primarily due to a lack of funding and/or limitations in the training provided. Another important challenge identified<sup>258</sup> was the lack of an overarching identification status, standard criteria or indicators to identify victims, which results in competent authorities with too much discretion in identifying presumed (potential) victims of trafficking, and, accordingly, too little transparency in their decisions.

A challenge identified in Latvia was the need for additional funding for preparatory activities in situation of trafficking in human beings case where numerous victims are detected in between detection and identification to ensure that the presumed victim can immediately be removed from the place of exploitation and be protected, as too much time may pass before they are formally identified and entitled to support services. Georgia indicated the challenge related to the identification of victims among children in street situations. Finally, other EU Member States, Norway and Georgia<sup>259</sup> identified the need for competent authorities to take a more proactive approach to identification so as to ensure that victims are identified in a timely manner and not harmed further.

### 2.3.4. Specific measures in place for identification

In addition to general identification measures that apply to all victims of trafficking in human beings, several EU Member States and Norway have adopted specific measures for certain categories of third-country nationals (Table 4).

**Table 4. Specific procedures to identify third-country national (presumed) victims of trafficking in human beings**

Procedures for (presumed) victims	Identification
Within the asylum procedure	DE, ES, FI, FR, HU, LT, SE, SK and NO
Within the legal migration procedure (e.g. seasonal workers, domestic workers, au pairs, students)	FI, SE, SK and NO
Voluntary returnees	HU, LT, NO
Falling under other categories included in the definition of vulnerable persons adopted for this study (e.g. minors, unaccompanied minors, disabled people, elderly people, pregnant women)	BE, ES, HR, HU, IE, SE, SK, NO
Who are in an irregular situation	ES, HR and NO
In case criminal procedures cannot take place	FI

<sup>256</sup> Formal identification is governed by section 38 of the Act on the Reception of Persons Applying for International Protection and on the Identification of and Assistance to Victims of Trafficking in Human Beings (746/2011).

<sup>257</sup> CY, IE, LT, NL.

<sup>258</sup> IE, LT, NL.

<sup>259</sup> LT, SI and NO, GE.

Five EU Member States and Norway apply specific identification measures in their **asylum procedure**.<sup>260</sup> In Germany, identification within the asylum procedure is carried out by the Federal Office for Migration and Refugee's specially commissioned case officers in human trafficking. In Hungary, if suspicion arises, targeted questions and analysis of body language are carried out during the hearing. In Norway, if there is suspicion of trafficking in human beings in an asylum case, the police officer or the interviewer at the Directorate of Immigration will conduct an identification procedure, based on a set of indicators. Following identification, they also support victims in accessing their rights. During the asylum process in Finland, case officers must proactively assess whether a residence permit may be granted to (presumed) victims of trafficking in human beings on those grounds, even if there are no grounds to grant international protection. Upon issuing a continuous residence permit to a victim of a trafficking in human beings who is in a particularly vulnerable situation, the Finnish Immigration Service formally identifies the person as a victim, regardless of the result of their asylum application. In Slovak Republic, if there is a suspicion of victimhood, Migration Office employees use a defined set of questions to identify asylum seeker as a potential victim of trafficking in human beings.

In **legal migration procedures**, if there are indications of possible exploitation related to trafficking in human beings, the Directorate of Immigration in Norway contacts the police to facilitate identification and provide the victims with information on their rights. The same procedure is followed in cases of expulsion. In Finland, similar to the asylum procedures, the Finnish Immigration Service formally identifies a victim when it decides to issue a residence permit to an individual on the basis of that individual being a victim of trafficking in human beings and in a particularly vulnerable situation.

Norway has adopted a similar approach to identifying (presumed) victims who are **voluntary returnees**, with the competent authority for immigration in both countries (of destination and origin) cooperating with the IOM when they detect a (presumed) victim of human trafficking among voluntary returnees.

Several EU Member States and Norway have specific identification measures in place for **vulnerable migrants** (minors, unaccompanied minors, disabled people, older people, pregnant women).<sup>261</sup> In Belgium, unaccompanied minors receive a temporary residence permit during the reflection period. The issuance of the permit is designed to help the minor to make statements about their situation and facilitate their identification as a victim.

Spain and Norway have distinct measures for (presumed) victims in an **irregular situation**. In Spain, such third-country nationals are entitled to a reflection period of at least 90 days, as well as to a residence and work permit, based on their cooperation with the criminal investigation, or their personal circumstances. In Norway, all presumed victims, also those in an irregular situation, may be granted a reflection period of six months or a

limited residence permit based on cooperation with the police during a criminal investigation

Finally, one way of formally identifying a (presumed) victim of human trafficking in Finland is the commencement of criminal procedures. However, sometimes criminal procedures cannot take place, for example when the crime has happened abroad and/or it is not possible to bring the perpetrator to justice. In these instances, the National Assistance System for Victims of Trafficking in Human Beings can formally identify a victim after consulting a multidisciplinary expert team.

### 2.3.5. Referral mechanisms

The Anti-trafficking Directive, Article 11(4), obliges EU Member States to take the measures necessary to establish **appropriate mechanisms** for early identification, assistance and support for victims, in cooperation with relevant support organisations. More than half of EU Member States and Georgia reported having NRMs in place at national level for all types of victims,<sup>262</sup> while three countries used **alternative mechanisms**.<sup>263</sup>

In most countries that reported having an NRM,<sup>264</sup> different authorities are responsible for reporting presumed cases of trafficking in human beings to a central authority responsible for identification. This competent authority takes the form of a specialised body in Bulgaria and Italy, or, in Cyprus, Luxembourg and Georgia, constitutes a specialist unit within the police. In Estonia, officers who come into contact with (presumed) victims of trafficking in human beings are obliged to notify the Social Insurance Board within the Ministry for Social Affairs. This also seems to be the case in other countries with a single authority competent for identification, such as Cyprus, Greece and Lithuania. In Belgium, frontline services detecting potential victims of human trafficking should refer these persons to the recognised specialised centres for reception and support. After the intake interview, the centres may introduce an application for an authorisation to stay on behalf of the (presumed) victim. In the context of this residence procedure, victims may be identified by the public prosecutor.

In Ireland, presumed victims of trafficking are referred or self-report to the Irish police (competent authority) for identification, which then provide entry into the NRM. Victims can access a range of services and protections within the mechanism. Ireland is in the process of developing a new NRM to allow more authorities to identify victims and provide access to supports. In 2021, Portugal launched an NRM specifically for child (presumed) victims of trafficking in human beings.

In several other countries,<sup>265</sup> referrals can be made to - and by - different bodies responsible for detection, identification, investigation and support. In Croatia, referrals can be made by four mobile teams of social workers and NGOs involved in detecting and referring (presumed) victims of trafficking. These teams work closely with the police's anti-trafficking officers, coordinators for adult victims and child victims, and the migration police when

260 DE, FI, HU, LT, SK and NO.

261 BE, ES, IE, LV, SK, NO.

262 BE, BG, CY, CZ, EE, ES, EL, HR, IE, LT, LU, PL, PT, SE, SI, SK and GE.

263 AT, DE, NL.

264 BE, BG, CY, EE, EL, IT, LT, LU, PT and GE.

265 CZ, ES, HR, LV, SE and GE.

third-country nationals are involved. In Spain, referral is organised through a national framework protocol on trafficking in human beings, which brings together different organisations. In Slovak Republic, referral is assured through cooperation agreements involving ministries, the police (including special forces for organised crime and migration), NGOs and intergovernmental organisations.

Austria, Germany and the Netherlands implement **alternative mechanisms** that focus either on specific victim groups or geographical areas. In Austria, an NRM only exists for child (presumed) victims,<sup>266</sup> while in Germany, referral mechanisms operate at regional (state) level, except for (presumed) victims of trafficking in the asylum procedure, for which an NRM is in place. In the Netherlands, a nationwide network of care coordinators was established in December 2018. It uses the website 'Signposting human trafficking', which directs users to a local care coordinator specialised in trafficking in human beings and in delivering tailored care and solutions. The website was reported as not being fully functional as an effective NRM but was updated and improved as of 1 September 2021. Finland has a long history of developing practices to identify and assist victims. The National Assistance System for Victims of Trafficking in Human Beings was established in 2006 and has grown into a national centre of expertise that helps hundreds of human trafficking victims each year. As yet, however, Finland has no formalised NRM, although one is being developed. In France, law enforcement and labour inspectors are competent for identification, but there is no formal NRM, nor do the two types of organisations use common indicators for identifying victims. A 'benchmark mechanism' is envisaged in the country's second action plan, however. Norway has no formal NRM, but all governmental agencies and health personnel that come into contact with presumed victims are obliged to facilitate their detection and identification, to offer safe accommodation, and to refer them to legal aid and further assistance. In Spain, the Framework Protocol for the Protection of Victims of Human Trafficking (2011) constitutes the National Referral Mechanism in the field of human trafficking. It also established for the first time the formal communication systems between the administrations with authority in the matter and

acknowledged the work of NGO's specialised in the care of the victims.

### Box 13: Good practices in interagency cooperation and communication

In Belgium, since several decades the fight against trafficking in human beings is based on multidisciplinary cooperation, the guidelines of which are set out in a ministerial circular. The multidisciplinary approach is based on mutual respect and (in)formal exchange of information between all competent actors (the specialised centres for victims, police, labour inspection, migration and judiciary services), and pays particular attention to the prevention of trafficking in human beings and the protection of its victims. The Interdepartmental Coordination Unit for the Fight against Trafficking and Smuggling in Human Beings (Federal Public Service Justice) coordinates policies and brings together all federal and regional actors in the field of trafficking and smuggling in human beings.

Flexibility and clarity of contact points were reported as key success factors in Luxembourg's detection, identification and protection capacities. While more conducive to a smaller country, this approach lets different authorities join - remotely and at short notice - a 'restricted monitoring committee on the fight against trafficking in human beings' to deal with suspected cases of trafficking that require immediate action.

The Netherlands underlined that cooperation between authorities was encouraged, with municipalities expected to play a leading role in providing an integrated approach and committing the necessary administrative resources to combat trafficking in human beings on their territory. Operationally, interagency cooperation between the police, border guards, public prosecutor, labour authority and migration services is aided by the Dutch Expertise Centre for Human Trafficking and Human Smuggling (EMM), which supports criminal investigations and detection, as well as developing procedure and policies on the basis of its analyses.

<sup>266</sup> For others, a decree governs the procedure in suspected cases with binding force for the officials of the public security service. However, this only affects the internal processes at the Federal Ministry of the Interior, meaning there is no comprehensive, formalised NRM.

# 3. PROTECTION AND SUPPORT MEASURES

The EU recognises the considerable suffering and long-lasting harm that trafficking in human beings causes to victims, their families, and society at large. It has therefore adopted several measures to ensure that (presumed) victims are adequately protected and supported. The most recent Strategy on Combating Trafficking in Human Beings (2021-2025) sets out protection and empowerment of the victims of trafficking in human beings as one of three pillars for EU action.<sup>267</sup> Several EU legislative instruments stipulate how EU Member States should treat (presumed) victims of human trafficking. These have been implemented in different ways, sometimes going beyond the

minimum standards to enhance the support and protection of (presumed) victims.

This section summarises the measures implemented by EU Member States, Norway and Georgia based on national or EU legislation. It is structured around two main types of protection mechanisms:

- Protecting (presumed) victims by granting the right to stay (Section 3.1);
- Providing (presumed) victims of trafficking in human beings access to support, assistance and protection measures (Section 3.2).



## 3.1. PROTECTING (PRESUMED) VICTIMS BY GRANTING THE RIGHT TO STAY

Regardless of whether jurisdictions distinguish between detection and identification of (presumed) victims, third-country nationals have several options available to them, at EU and national level, to allow them to stay, at least temporarily:

- In line with Directive 2004/81<sup>268</sup> (hereunder '**Residence Permit Directive**'), third-country nationals who are (presumed) victims of trafficking in human beings have the right to reside in the Member State where they were identified **during a reflection period**. This is a period determined by national law during which the third-country national cannot be expelled or transferred to another Member State. The aim of the reflection period is to allow (presumed) victims to escape the influence of the perpetrator and to recover, so that they can take an informed decision on whether or not to cooperate with the competent authorities (Section 3.1.1).
- Once the **reflection period** has expired, (presumed) victims who are third-country nationals may be **granted a residence permit** of longer duration, on the grounds of their victimisation and to support investigation and prosecution of their perpetrators. As per the Residence Permit Directive, victims who decide to cooperate with national authorities can be granted

a residence permit for the duration of the criminal proceedings. EU Member States, Norway and Georgia have also established other types of residence permits that are accessible or specifically designed for (presumed) victims of trafficking in human beings (Section 3.1.2).

- Under certain circumstances, being designated a (presumed) victim of trafficking in human beings may entitle a third-country national to **benefit from international or subsidiary protection**. For asylum applicants who are subject to a Dublin III transfer procedure, their detection or identification as a (presumed) victim may also have an impact on the process or the transfer decision (Section 3.1.3).

### 3.1.1. The right to stay during the reflection period

The **Residence Permit Directive** requires EU Member States to provide third-country nationals detected as potential victims of trafficking in human beings with a reflection period, allowing them to escape the influence of the perpetrator(s), recover, and decide whether to cooperate with national authorities in the investigation of the crime (Article 6).<sup>269</sup> During the reflection period, the (presumed) victim is allowed to stay in the EU, thus any

<sup>267</sup> European Commission, Communication on the EU Strategy on Combating Trafficking in Human Beings (2021-2025), COM(2021) 171 final, 2021; European Commission, Communication on the EU Strategy on victims' rights (2020-2025), COM(2020) 258 final, 2020; European Commission, Communication on the EU Strategy on the rights of the child, COM(2021) 142 final, 2021.

<sup>268</sup> Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities.

<sup>269</sup> In contrast to the CoE Anti-Trafficking Convention (which establishes a minimum period of 30 days), the Residence Permit Directive leaves the duration of the period to the discretion of EU Member States.

expulsion<sup>270</sup> decision will remain unenforceable until the reflection period expires. The Directive does not create any entitlement to residence for (presumed) victims during the reflection period (Article 6(3)). At national level, some EU Member States allow third-country nationals to stay without granting them residence status,<sup>271</sup> while others – including Norway and Georgia despite not being bound by the Directive – provide them with a temporary residence document.<sup>272</sup>

The Directive leaves many aspects to the discretion of EU Member States, and they have adopted different approaches to various procedural aspects (e.g. the authorities competent to request a reflection period and the applicable procedure, conditions of the period). One of the variable elements is whether the reflection period applies exclusively to identified victims or also to presumed

victims. The majority of EU Member States, Norway and Georgia, allow both presumed and identified victims access to the reflection period,<sup>273</sup> while the remainder require formal identification as victims.<sup>274</sup> In Estonia, only people that are either victims or witnesses in an open criminal procedure are granted a reflection period.

The **competence to request the reflection period** differs across countries.<sup>275</sup> In approximately half of the EU Member States and Norway, the police are the main competent authority (Table 5). This is followed by prosecutors and civil society organisations in some EU Member States. Just under half of the reporting EU Member States and Norway allow (presumed) victims to lodge a request for a reflection period themselves.<sup>276</sup> In some cases, (presumed) victims may do so through a representative,<sup>277</sup> or an NGO.<sup>278</sup>

**Table 5: Competent authorities to request a reflection period**

Police	Prosecutor	Civil society organisation	Border control	Labour inspectorate	Ministry	Agency, commission, office	Social work centre
AT*, CZ, DE, EE, ES, FI, <sup>279</sup> FR, HU, IE, IT, LU, LV, NL, <sup>280</sup> PL, PT, SE, SI, SK and NO	BG, EE, EL, DE, IT, LT, PL, SE, SK	BE, CZ, HR, SI, SK <sup>281</sup>	NL, FI, <sup>282</sup> FR, PL, PT	FR, NL, SI	LU, SK <sup>283</sup>	FI <sup>284</sup>	SI

\*In Austria, the reflection period is often not formally granted as there is no such provision at national level. However, it tends to be observed in practice, as a result of close monitoring by victim protection organisations, which channel all communication between the police and the (presumed) victim during the reflection period.

\*\* In Cyprus, there is no request authority. The reflection period is automatically granted to all victims.

The Residence Permit Directive allows EU Member States to impose conditions or obligations on the (presumed) victim during the reflection period. The main conditions imposed at national level are:

- **Cooperation with national authorities:** several EU Member States require (presumed) victims to cooperate with investigating competent authorities in order to be granted the reflection period.<sup>285</sup> Generally, the (presumed) victim is asked to disclose details of the crime, although in Lithuania they are also compelled to provide all relevant documents in their possession and to notify the authorities of any funds and property they receive during the reflection period, within one day of receipt. In several EU Member States, cooperation was not a prerequisite, but (presumed) victims were offered the possibility and encouraged to do so.<sup>286</sup> In Sweden and Ireland, even if cooperation with the authorities is not required, the granting of a

reflection period presupposes that a police report was made and that a preliminary investigation was initiated by the police

- **Avoiding contact with the suspected perpetrator or other persons who might influence the (presumed) victim's decision to cooperate:** one of the objectives of the reflection period is to allow the victim to escape the influence of the suspected perpetrator(s), thus some EU Member States do not allow the (presumed) victim to come into contact with the (suspected) perpetrator during the reflection period.<sup>287</sup> In Lithuania, the (presumed) victim is also required to avoid communication with any person who might influence their decision to cooperate.
- **Other conditions:** in Croatia, the (presumed) victim must protect the location of the shelter in which they are placed. In Belgium, in addition to avoiding contact

270 Court of the Hague, 29 January 2021 ECLI:NL:RBDHA:2021:727; Schlintl, J. and Sorrentino, L., Residence Permits, International Protection and Victims of Human Trafficking: Durable Solutions Grounded in International Law, 2021, [https://documentation.lastradainternational.org/Isidocs/3387-REST%20Report%20Residence%20Permits%20-%20International%20Protection%20and%20Victims%20of%20Human%20Trafficking%20-%20FEB%202021.pdf?fbclid=IwAR2YgWVVDXeb0CtOMDdJQd9IOGBDw\\_pMZ0d7hS\\_NQF3-E3deluMObDued4](https://documentation.lastradainternational.org/Isidocs/3387-REST%20Report%20Residence%20Permits%20-%20International%20Protection%20and%20Victims%20of%20Human%20Trafficking%20-%20FEB%202021.pdf?fbclid=IwAR2YgWVVDXeb0CtOMDdJQd9IOGBDw_pMZ0d7hS_NQF3-E3deluMObDued4), last accessed on 26 January 2022.

271 BG, FI, FR, LU, NL, PL.

272 BE, CY, ES, (only issued for formally identified victim, with a duration of 5 years) HR, LT, LV, SE, SK and NO, GE.

273 AT, BE, BG, CY, CZ, DE, EL, FI, IE, IT, LV, NL, PT, SE, SK and NO, GE.

274 EE, ES, FR, HR, HU, LT, LU, MT, SI.

275 The competence to request a reflection period does not always remain with the same authorities responsible for the detection or identification of (presumed) victims of trafficking in human beings (Table 2).

276 CZ, DE, IE, HU, IT, LV, SI, PL, PT and NO, GE.

277 HU, IE.

278 MT.

279 No formal procedure of requesting a reflection period. Competent to grant a reflection period ex officio\*

280 Law enforcement in the Netherlands is competent to request the reflection period, the permit is granted by the IND.

281 Victims who entered the Programme for Support and Protection.

282 No formal procedure of requesting a reflection period. Competent to grant a reflection period ex officio.

283 In case of extension to the reflection period.

284 No formal procedure of requesting a reflection period. Competent to grant a reflection period ex officio.

285 BG, LT, MT.

286 BE, CY, EL, IT, LV.

287 BE, CY, CZ, EE, EL, FI, HR, IE, LT, LU (Minister can terminate the reflection period in this case), LV, MT, SK.



with the alleged perpetrator, (presumed) victims must accept the assistance and support offered to them by one of the three specialised centres. In Slovak Republic, there must be a justifiable conclusion that the person could have become a victim of trafficking, and the person must be at least 18 years old. In Cyprus, the (presumed) victim shall surrender, by its own will, his/her travel documents to the Police

The reflection period lasts 30 days in most EU Member States and Georgia,<sup>288</sup> 45 days in one Member State,<sup>289</sup> 60 days in two EU Member States,<sup>290</sup> and 90 days in five EU Member States.<sup>291</sup> Others apply a flexible reflection period, ranging from 30 days to six months.<sup>292</sup> Norway allows for a longer duration of six months. In Greece, when the (presumed) victim is a minor, the reflection period can be extended by two months (from three to five months). The Residence Permit Directive, Article 6(4), foresees two main situations that create **grounds for termination** of the reflection period: firstly, when the (presumed) victim has actively, voluntarily and on their own initiative, re-newed contact with the perpetrator of the offence;<sup>293</sup> and secondly, for reasons relating to public policy and national security.<sup>294</sup>

### 3.1.2. The right to stay after expiry of the reflection period

Once the reflection period has ended according to national law, (presumed) victims of trafficking in human beings may be entitled to acquire residence rights deriving from their status as (presumed) victims. The Residence Permit Directive provides that any victim who wishes to cooperate with competent authorities in the investigation and prosecution of the crime should be granted a residence permit allowing them to legally reside in the EU for the duration of the investigation or the criminal proceedings (Section 3.1.2.1). Many EU Member States also make it possible for (presumed) victims to obtain the right to residence, irrespective of their involvement in the criminal proceeding (Section 3.1.2.2).

#### Residence permits in the context of an investigation or criminal proceedings

The Residence Permit Directive lays down the conditions for issuing and renewing the residence permit of a (presumed) victim, after the expiry of the reflection period, or earlier if they have shown clear intention to cooperate with the competent authorities (Art. 8(1)). Almost all EU Member States bound by the Directive report having

residence permits or certificates in place under certain conditions.<sup>295</sup> Ireland, Norway and Georgia, although not bound by the Directive, have similar permits in place. Some countries require the victim to be formally identified in order to obtain the permit,<sup>296</sup> while almost half of the EU Member States, Norway and Georgia do not distinguish between presumed and identified victims.<sup>297</sup> In some countries,<sup>298</sup> that lack of distinction is rooted in the fact that there is no official distinction between the two phases (detection and identification).

Residence permits are usually granted for an initial **duration** of 6-12 months,<sup>299</sup> although there are exceptions, such as Spain, where the permit is issued for an initial duration of five years, and Latvia, where its duration is directly linked to the necessity of the (presumed) victim's presence vis-à-vis the investigation. Regardless of their initial duration, most permits can be renewed,<sup>300</sup> or remain valid for as long as the criminal proceedings are ongoing.<sup>301</sup> Several EU Member States and Georgia have established a maximum duration, of one year in Slovenia, three years in Poland and the Netherlands, and 12 years in Georgia.<sup>302</sup>

In addition to the requirement to cooperate with the competent authorities, these types of permits are generally linked to **other conditions**. In line with the Residence Permit Directive, which foresees three main reasons why EU Member States may decide to refuse to renew or to revoke the residence permit, the majority of EU Member States and Norway have established conditions to be met to benefit from the rights afforded by the permits:

- Victim has severed all relations with those suspected of acts related to facilitating illegal immigration or trafficking in human beings;<sup>303</sup>
- Staying in the country might require assisting with the investigation or the judicial proceedings;<sup>304</sup>
- Individual is not considered a danger to public policy or national security.<sup>305</sup>

**Other conditions** may also apply. In several EU Member States and Norway, the permit is only granted if the (presumed) victim has filed a complaint or pressed charges.<sup>306</sup> Some EU Member States also impose conditions that are not linked to the criminal proceedings.<sup>307</sup> In Belgium, the (presumed) victim needs to accept the support offered by specialised centres, while in Austria, they must already reside in the country in order to obtain the residence

288 AT, CY, FR, LT, LV, MT (extendable), SI, SE and GE.

289 BE.

290 CZ, IE.

291 EL, ES, LU, NL, PL, SK.

292 Between 30 and 60 days: BG, EE, PT; from one to six months: FI; from three to six months: IT, HR; from one to three months or longer.

293 BE, CY, DE, EE, IE (does not participate in the Residence Permit Directive), FI, LU, LV, PL, SK.

294 BE, CY, DE, EE, FI, FR, HU, IE, (does not participate in the Residence Permit Directive), LU, LV, SE, SK.

295 AT, BE, CY, CZ, DE, EE, EL, ES, FI, FR, HU, LT, LU, LV, MT, NL, PL, PT, SE, SI, SK and NO, GE.

296 BE, EL, ES, FR, HR, IE, LU, LV, PT, SI. In Belgium, formal identification is only required for the residence permit of six months, not for the initial residence permit of three months.

297 CY, DE, FI, IT, LT, NL, PL, SE, SK and NO, GE.

298 IE, NL, SE.

299 AT (12 months, renewable), BE (three months for presumed victims; six months for identified victims), CY (12 months, renewable) CZ (six months), DE (minimum six months), EE (6-12 months), EL (12 months), FI (6-12 months), FR (6-12 months according to the situation), HR (6-12 months), HU, IE (six months for identified victims), IT (initial duration six months, renewable up to twelve months), LU (six months, renewable), LV, NL (three years), PL (12 months), PT (12 months, renewable), SE (six months), SI (6-12 months), SK (six months, renewable), NO (12 months), GE (6-12 months, renewable once).

300 AT, CY, NL, SI, SK, NL, LU (renewable, on each occasion for a period of six months, for the duration of the judicial proceedings),

301 BE, CY, CZ, EE, EL, FI, FR, HU, IE, LU, PL, SE and NO, GE.

302 NL, PL, SI, SK and GE.

303 BE, CY, DE, EE, FI, FR, IE, LU, PL, PT, SE, SI, SK and NO.

304 AT, CY, DE, FI, FR, IE, LU, LV, NL, PT, SE, SI, SK and NO.

305 BE, CY, DE, EE, FI, FR, HR, LU, NL (unless the danger is linked to the THB), PL, SE, SI.

306 FR, LU, NL and NO.

307 AT, BE, FI, PL.

permit. In Slovenia the permit won't be granted if there is a reasonable suspicion that the victim's complaint is false.

These residence permits are generally **withdrawn or not renewed** when the conditions are no longer met, with several EU Member States specifically referring to the termination of the criminal proceedings as grounds for withdrawal of the residence permit,<sup>308</sup> and others indicating that the permit may be withdrawn if the (presumed) victim voluntarily and on their own initiative renews contact with the suspected or accused person.<sup>309</sup>

### Other national residence permits available for (presumed) victims of trafficking in human beings

Beyond the temporary permit granted to those wishing to cooperate with competent authorities, the vast majority of the EU Member States, and Georgia also allow (presumed) victims of trafficking in human beings to acquire **residence rights that are not conditional on their participation in criminal proceedings**.<sup>310</sup> Around half reported issuing residence permit(s) for a period of less than five years,<sup>311</sup> while the other half granted permits of unlimited or long-term duration (i.e. five years or more).<sup>312</sup> A minority of EU Member States require prior formal identification to grant these permits.<sup>313</sup>

Some EU Member States have established more than one type of residence permit for (presumed) victims of trafficking.<sup>314</sup> In Belgium, in addition to the temporary residence permit linked to cooperation, an initial three-month residence permit is foreseen for (presumed) victims who have filed a complaint and accepted the support offered, while a permit of unlimited duration is granted to certain identified victims after the criminal proceedings have concluded. Similarly, the Netherlands grants two types of residence permits: in addition to the permit linked to participation in the investigation or criminal proceedings, there is a permit granted to victims on the basis of non-temporary humanitarian grounds in relation to trafficking in human beings. That permit application can begin when the official prosecution of the suspect starts, or after issuing a permit on the basis of distress who do not already hold residence permits. In Ireland, temporary six-month residence permits can be issued to victims of trafficking who do not already hold residence permits. In Ireland, temporary six-month residence permits can be issued to victims of trafficking who do not already hold residence permits. They can be issued up to six times, covering a three-year period, following which a victim of human trafficking can be granted a two-year residence permit.

Several EU Member States foresee the possibility of granting a temporary residence permit as an **exception to the requirement to cooperate** in criminal proceedings, based on personal circumstances.<sup>315</sup> In Spain, a five-year permit may be provided to identified victims who do not wish to cooperate if there are personal circumstances that justify their decision. Similarly, the Netherlands foresees a temporary permit for those who cannot contribute

to the procedure for reasons of age, (physical or mental) disorder, or because they have been threatened. The duration of this permit is one year, non-renewable, after which the victim may apply for a permit on non-temporary humanitarian grounds. In Slovenia, since an amendment to the Foreigners Act on 26 May 2021, a temporary residence permit may be issued in the event of personal circumstances justifying residence in the country. The residence permit can be granted to a victim of trafficking in human beings for no less than six months and no more than one year. It may be extended for a maximum of one year, at the victim's request.

Several EU Member States and Norway grant permits that specifically cover **residence once the criminal proceedings have concluded** and that are conditional on the victim's participation in the investigation, or on the outcome of the proceedings:

- In Poland, the Netherlands and (in some cases) Norway, having cooperated with authorities gives the (presumed) victim the right to be granted unlimited or long-term residence. Poland foresees a permanent residence permit (valid for 10 years, renewable) for (presumed) victims, provided they stay for at least one year after submitting the application, on the basis of a temporary residence permit granted for their cooperation with authorities, and they have reasonable concerns about returning to their country of origin. In the Netherlands, a permit on non-temporary humanitarian grounds is available for presumed and identified victims after three years from the time they were granted temporary residence to cooperate with authorities. A non-temporary permit can be applied for after five years of legal residency. In Norway, the so-called witness permit is available for those who testify in court or to the police, if certain criteria are met. This permit allows for future permanent stay in Norway, but requires the (presumed) victim to apply for international protection and go through the asylum process;
- A long-term residence permit may be granted to identified victims if the complaint or statement by the victim lead to a conviction, or if the public prosecutor or the labour auditor established the offence of trafficking in human beings in their charges in Belgium (unlimited duration permit) and France (10-year residence permit).

Some EU Member States grant residence permits to specific groups of victims on the basis of their acute level of vulnerability:

- In Finland, a 'continuous residence permit' of one year can be granted to victims in a particularly vulnerable position. This permit is not conditional on the victim cooperating with the authorities, or the stay of the victim being necessary for pre-trial investigations or court proceedings. However, it is conditional on the victim no longer having contact with the suspect (although this is reportedly difficult to monitor in

<sup>308</sup> CY, EE, IT, NL, LU (can be revoked if judicial authorities decide to interrupt the procedure), LV, PL, PT, SE, SK. In IT the residence permit is revoked or not renewed when the conditions are no longer met, although these conditions might not only be linked to the termination of the criminal proceedings. These proceedings could end, while the permit could not be revoked.

<sup>309</sup> BE, CY, EE, HR, IE, LU, LV, PT.

<sup>310</sup> BE, BG, CZ, DE, EL, ES, FI, FR, HR, IT, LU, LV, MT, NL, PL, SI and GE.

<sup>311</sup> BE, DE, EL, FI, FR, IT, LU, LV, MT, NL, SI.

<sup>312</sup> BE, BG, CZ, ES, FR, NL, PL.

<sup>313</sup> BE\*, ES, EL\*, HR, FR\*, LU, PL, SI. \*Only for some of the residence permits that are made available.

<sup>314</sup> BE, CZ, DE, EL, FR, IE, NL, PT.

<sup>315</sup> ES, NL, PL, SI.

practice). Previous identification as a victim is not required to obtain this permit, as the granting of this residence permit itself leads to identification;

- In France, presumed and identified victims of trafficking in human beings recruited for sexual exploitation can request a 'temporary residence authorisation', which is conditional on: (i) the victim ceasing the prostitution activity; and (ii) the victim having begun a process to leave prostitution (via an exit programme) and move towards social and professional integration. They do not have to cooperate in the criminal proceedings. Initially valid for six months, the permit may be renewed up to a maximum of 24 months if the conditions continue to be met. This residence permit is possible since the 2016 reform criminalising buyers of sex services;<sup>316</sup>
- In Czech Republic, permanent residence is granted to (presumed) victims who are unaccompanied minors;
- In Portugal, a permit can be granted if justified by the personal situation of the victim or members of their family, particularly their security, health, family situation or vulnerability.

Other examples of residence permits available for (presumed) victims of trafficking include:

- Temporary residence permits linked to the implementation of witness protection programmes.<sup>317</sup> In Latvia, the permit is also available for (presumed) victims;
- Temporary permits granted to (presumed) victims whose personal circumstances justify their residence in the Member State.<sup>318</sup> In Slovenia, the permit is applicable only to identified victims and is valid for 6-12 months (renewable for one year);
- A long-term permit granted to (presumed) victims upon request by a prosecutor, which requires the person to have a valid national identity document;<sup>319</sup>
- A residence permit for (identified) victims of labour exploitation.<sup>320</sup>

EU Member States can also opt to grant a permit for **humanitarian reasons**.<sup>321</sup> The circumstances in which this type of permit is issued vary. Luxembourg grants this permit to (presumed) victims whose residence permit linked to cooperation has expired and where there are reasons of exceptional gravity. France uses the 'private and family life residence permit' for (presumed) victims who did not cooperate or who cooperated but the proceedings did not lead to a conviction. In Greece, this type of permit is granted to (presumed) victims who cannot obtain other residence permits specifically designed for victims of trafficking in human beings. Croatia reserves this type of permit for identified victims, provided they take part in the assistance and protection programmes offered. In Belgium, victims may be granted an authorisation to stay

for humanitarian reasons if the public prosecutor ends the criminal investigation after a period of more than two years. In both Greece and France, the duration of this type of residence permit is one year, after which it can be renewed. In Luxembourg, it is issued for a maximum period of three years, however, in practice, the first residence permit is generally issued for one year. It is renewable if, when reviewed, the victim's situation has not changed, and they continue to fulfil the conditions for obtaining it.

Some EU Member States foresee the possibility to grant authorisation to stay to (presumed) victims who are not eligible for a residence permit but who cannot be returned (see Section 3.1.3, on the principle of *non-refoulement*).<sup>322</sup>

### 3.1.3. Access to international protection for victims of trafficking

Irrespective of the residence permits available to them, (presumed) victims of trafficking in human beings are also entitled to seek international protection and to benefit from the principle of *non-refoulement*, even when they are in a situation of irregular migration. This is expressly stated in the preamble of the Residence Permit Directive, Recital 4, and is also reflected in the EU asylum acquis, which explicitly recognises victims of trafficking as a vulnerable group with potentially special reception needs (e.g. recast Qualification Directive, Article 20(3)). Being a victim of trafficking is not in itself a criterion before being granted international protection. To be eligible for international protection, the individual circumstances of the (presumed) victim of trafficking in human beings must be considered to assess whether they meet the conditions for international protection established in the recast Qualification Directive.

The Qualification Directive links the right to protection to a well-founded fear of persecution, a real risk of suffering or serious harm, especially if the actor of persecution is the state, or when committed by non-state actors where sufficient protection is not or cannot be provided by state actors or international organisations. In human trafficking cases, United Nations High Commissioner for Refugees (UNHCR) Guideline no 7<sup>323</sup> recognises that the trafficking experience tends to lead to human rights violations that would generally amount to acts of persecution, but the specific trafficking experience of the asylum seeker needs to be considered when reflecting on whether return would result in persecution. The most difficult requirement for cases of trafficking in human beings to meet may be the link to one of the 1951 Geneva Convention grounds (race, religion, nationality, political opinion, or membership of a particular social group). While some traffickers target specific ethnic or minority groups, victims are usually targeted for their commercial value. This requirement may constitute an obstacle for those (presumed) victims

<sup>316</sup> Law No. 2016-444 of 13 April 2016 on the fight against prostitutions and support for prostitute, [https://www.legifrance.gouv.fr/loda/id/JORFTEXT000032396046?init=true&page=1&query=2016-444&searchField=ALL&tab\\_selection=all](https://www.legifrance.gouv.fr/loda/id/JORFTEXT000032396046?init=true&page=1&query=2016-444&searchField=ALL&tab_selection=all), last accessed on 26 January 2022.

<sup>317</sup> LV, MT.

<sup>318</sup> DE, ES (to identified victims who do not wish to cooperate if there are personal circumstances that justify their decision), SI.

<sup>319</sup> BG.

<sup>320</sup> IT.

<sup>321</sup> BE, DE, EL, FR, HR, LU.

<sup>322</sup> CY, LU, NL, PL.

<sup>323</sup> Guidelines on International Protection No 7: The Application of Article 1A(2) of the 1951 Convention and/or 1967 Protocol Relating to the Status of Refugees to Victims of Trafficking and Persons at Risk of Being Trafficked, <https://www.unhcr.org/publications/legal/443b626b2/guidelines-international-protection-7-application-article-1a2-1951-convention.html>, last accessed on 24 February 2022.

who are unable to prove that traffickers recruited them for reasons other than profit.<sup>324</sup>

Several EU Member States provided examples of how they assessed whether the grounds for protection were met in cases of trafficking in human beings.<sup>325</sup> The Finnish Supreme Administrative Court reported following the UN-HCR guidelines. With respect to the fear of persecution or serious harm, and state protection, in 2017, it determined that when assessing the need for international protection of victims of human trafficking, consideration should be given to whether they are likely to become victims if they are returned to their country of origin, and whether they would be able to obtain effective and lasting protection from the national authorities in that country of origin.<sup>326</sup>

France reported changes to interpretations of belonging to a certain social group, with asylum authorities recently granting refugee status to certain victims of trafficking for sexual exploitation. Similarly, in a decision from October 2019, the Council of State characterised a group of women from Nigeria who were forced into a network of trafficking of human beings for the purpose of sexual exploitation as belonging to a social group ('Nigerian women').

In Ireland, case-law from the International Protection Appeals Tribunal (IPAT) has also dealt with these two aspects (i.e. belonging to a particular social group, and the lack of adequate state protection for victims of trafficking). In a case from 2020 a Zimbabwean woman who had been trafficked,<sup>327</sup> the IPAT found that being a victim of domestic violence and a trafficked person are historical facts that cannot be changed, and can be used by applicants to justify a nexus with a Convention ground, including membership of a particular social group.

Those who are not eligible for refugee status as defined in the Geneva Convention may still be granted subsidiary protection status, in line with the Qualification Directive. This status is granted to third-country nationals who do not qualify for refugee status when there are substantial grounds to believe that, if returned to their country of origin or former habitual residence (in the case of a stateless person), they would face a real risk of serious harm. Several EU Member States explicitly referred to the possibility of granting subsidiary protection status to (presumed) victims of trafficking,<sup>328</sup> while Georgia grants a national form of subsidiary protection.

### Non-refoulement of (presumed) victims of trafficking in human beings

The principle of *non-refoulement* is enshrined in the Geneva Convention and constitutes a cornerstone of the EU asylum acquis. Article 21 of the Qualification Directive obliges EU Member States to respect the principle of *non-refoulement* in accordance with international obligations. In its preamble, the Anti-trafficking Directive also refers to this principle, reminding practitioners that the application of the Directive is without prejudice of the principle of *non-refoulement* established in the Geneva

Convention (para. 10). Accordingly, most EU Member States, Norway and Georgia apply the principle of *non-refoulement* for victims of trafficking in human beings.<sup>329</sup>

The majority of the EU Member States, as well as Norway and Georgia apply the principle of *non-refoulement* in the same way as for any other asylum application.<sup>330</sup> Sweden reported the existence of specific guidance on cases involving victims of human trafficking, while Slovenia and Croatia explained that, in practice, victims of trafficking in human beings are almost never returned. By contrast, several EU Member States reported special rules or conditions when the principle of *non-refoulement* is applied with respect to a (presumed) victim of trafficking in human beings:

- In Croatia, and Cyprus authorities seek to avoid forced returns of victims of trafficking in human beings, prioritising voluntary returns to the extent possible;
- In Cyprus, a residence permit, based on humanitarian reasons, may be granted to a victim of trafficking, when the non-refoulement principle applies.
- Greece does not return victims of trafficking who are still benefiting from victim protection or assistance measures;
- In Luxembourg, and Cyprus the principle of *non-refoulement* applies from the moment a (presumed) victim is detected and identified as such by the Judicial Police. Luxembourg, together with the Netherlands, is one of the countries that grants authorisation to stay to (presumed) victims who cannot qualify for either international protection or any other type of residence permit. In the case of Luxembourg and the Netherlands, the authorisation to stay is granted on expiry of a temporary residence permit when exceptional circumstances justify their stay in the country (e.g. possible consequences in the country of origin upon return). In Cyprus, as soon as a presumed victim meets several indicators of trafficking in human beings, they are referred to the NRM and all return procedures are suspended/stopped while criminal investigations and court cases are ongoing. When a case is closed, a risk assessment is carried out by the police, and if it is considered dangerous for victims to be repatriated, the Minister of Interior grants them a residence permit on humanitarian grounds

#### Box 14: Challenges in providing international protection to victims of trafficking

France reported a significant challenge to EU Member States' ability to provide adequate international protection to victims of trafficking in human beings, stating that victims of trafficking were often forced by their traffickers to apply for asylum and include false statements in their application. In the vast majority of cases, these applications are rejected. When victims file another application at a later stage

324 Schliintl, J. and Sorrentino, L., Residence Permits, International Protection and Victims of Human Trafficking: Durable Solutions Grounded in International Law, 2021, <https://documentation.lastradainternational.org/lisdocs/3387-REST%20Report%20Residence%20Permits%20-%20International%20Protection%20and%20Victims%20of%20Human%20Trafficking%20-%20FEB%202021.pdf>, last accessed on 26 January 2022.

325 FI, FR, IE.

326 Supreme Administrative Court decision KHO:2017:43, <https://www.kho.fi/fi/index/paatokset/vuosikirjapaatokset/1489662126870.html>, last accessed on 26 January 2022.

327 International Protection Appeals Tribunal (9 January 2020), 1952090-IPAP-19.

328 BE, CZ, DE, EE, EL, FI, FR, LT, LV, SE and GE.

329 AT, BE, BG, CZ, DE, EE, EL, ES, FI, FR, HR, HU, IT, LT, LU, LV, MT, NL, PL, SE, SI, SK and NO, GE.

330 AT, BE, BG, CY, CZ, EE, EL, FI, HR, LT, LV, LU, NL, SE, SI, SK and NO, GE.

based on legitimate concerns of persecution or serious harm related to trafficking, the reassessment of their case is processed through an accelerated procedure, which is not suspensive and often unfavourable.

There are **limitations to the principle of non-refoulement**. The Qualification Directive recognises the right of EU Member States **not to renew** or to **withdraw a residence permit** where there are reasonable grounds to consider the permit holder a danger to public policy/national security, or when they have ceased to cooperate, or when the competent authorities decide to end the proceedings (Articles 13 and 14).

#### Box 15: EU Member States' application of the Istanbul Convention, Articles 60 and 61

The CoE Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention) seeks to protect women against gender-based violence. Articles 60 and 61 specifically deal with gender-based asylum claims and the application of the principle of *non-refoulement* in cases of gender-based violence. The former requires countries to recognise gender-based violence against women as a form of persecution, to ensure a gender-sensitive interpretation with regard to each of the Geneva Convention grounds for persecution, and to develop gender-sensitive reception procedures and support services. The latter establishes that victims of such violence who are in need of protection - regardless of their status or residence - shall not be returned under any circumstances to any country where their life would be at risk or where they might be subjected to torture or inhumane or degrading treatment or punishment.

Eighteen EU Member States contributing to this report, as well as Norway, and Georgia, have ratified the Istanbul Convention.<sup>331</sup> Of the other five EU Member States that have signed but not yet ratified the Convention<sup>332</sup>, Czech Republic is reportedly implementing both provisions of the Convention and Lithuania is implementing Article 61 without reference to gender-based violence.

Some EU Member States that ratified the Convention indicated that while no specific legislation was put in place to comply with Articles 60 and 61, their approach in practice ensured compliance with the rules.<sup>333</sup> In Cyprus, Italy and Poland, the assessment of personal circumstances carried out on a case-by-case basis covers all gender-related aspects, including gender-based violence. Furthermore, Italy recognises explicitly the relevance of gender as a ground for granting refugee status including, female genital mutilation (FGM). Slovenia's International Protection Act does not expressly cover gender-based violence as a form of persecution, but gender-related aspects are nevertheless taken into account in the examination of all cases, in line

with the UNHCR guidelines on gender-related persecution. A similar situation was reported by the Netherlands, whose asylum procedure is considered gender-sensitive, and particular attention is paid to aspects such as trafficking in human beings, FGM, domestic violence and the needs of the LGBTQI+ community.

Some EU Member States formally recognise gender-based violence as a form of persecution.<sup>334</sup> This is not the case in France, but the broadening of the scope of 'social groups' (as described above) has resulted in gender-related violence being characterised as a form of persecution, as per the Geneva Convention. France also amended the right to asylum in 2015 with a view to encouraging better consideration of gender-related aspects when examining certain grounds for persecution, thereby reinforcing the protection of women within the asylum procedure.

Several EU Member States confirmed that they implement gender-sensitive asylum procedures.<sup>335</sup> These ranged from making use of trained case workers or experts in gender-based violence,<sup>336</sup> to allowing applicants to be interviewed alone<sup>337</sup> or by someone of their own gender,<sup>338</sup> or to request an interpreter of the same gender.<sup>339</sup> Several of these countries also adopted internal guidelines covering these special procedures.<sup>340</sup>

#### Box 16: Challenges in the application of the Istanbul Convention

- In Lithuania, national jurisprudence suggests that private subjects cannot be agents of persecution. This assumption thus excludes many cases of asylum seekers who experience gender-based violence, which is usually inflicted by individuals.
- Finland reported that, despite the specialist knowledge and support provided by the gender-based violence expert working at the Asylum Unit of the Finnish Immigration Service, it is often difficult to identify all cases of gender-based violence during the asylum procedure.
- In Ireland, national NGOs have critiqued the National Strategy on Domestic, Sexual and Gender-Based Violence for its lack of focus on migrant women, including human trafficking.

Under the Dublin III procedure, (presumed) victims of trafficking in human beings cannot be expelled from the EU during the reflection period. Within the Union territory, however, and although many EU Member States have a practice of not transferring presumed trafficked victims to another Member State during the reflection period (even if the transfer decision was taken prior to the detection of their victim status), this may validly happen - on the basis of the principle of mutual trust between the EU Member States. According to this principle, the transfer is in theory allowed during the reflection period since the other

331 AT, BE, CY, DE, EE, EL, ES, FI, FR, HR, IE, IT, LU, MT, NL, PL, SE, SI and NO, GE.

332 BG, CZ, LT, LV, SK.

333 CY, IT, NL, PL, SI.

334 AT, BE, DE, FI, IE, LU, SE and NO.

335 AT, BE, DE, EL, FI, FR, HR, LU, NL, SE and NO.

336 BE, DE, EL, FI, FR, HR and NO.

337 BE, DE and NO.

338 AT, BE, DE, FI, HR, NL and NO.

339 BE, DE, EL, FI, HR, IE, NL and NO.

340 BE, DE, EL, FI, SE and NO.

Member State must guarantee the rights of the (presumed) victims at all times. It should be noted that at the time of writing, a preliminary ruling is pending before the CJEU. The interpretation of the Court is therefore awaited on this specific issue.

Some EU Member States weigh additional considerations in cases where the transfer concerns an asylum seeker

who is (presumed to be) a victim of trafficking in human beings.<sup>341</sup> Finland applies stricter conditions for transfers of potential victims of trafficking in human beings to countries where the system is overburdened. In Germany, national authorities examine whether the transfer to another Member State entails a risk of secondary or repeat victimisation.



## 3.2. ACCESS TO ASSISTANCE AND PROTECTION FOR (PRESUMED) VICTIMS

(Presumed) victims of trafficking in human beings can benefit from **different measures to support and protect them against repeat victimisation**. The EU acquis includes minimum standards concerning the provision of such services, with some legislative instruments applying to all (presumed) victims, while others concern only (presumed) victims in specific situations.

Two main pieces of EU legislation lay down the foundation for the protection and support of (presumed) victims. Directives 2012/29 (Victims' Rights Directive) and 2011/36 ('Anti-trafficking Directive') establish minimum rules with respect to the provision of victim assistance and support, and access to protection measures.

In terms of **assistance and support**, they cover the right to information, translation and interpretation, counselling, legal representation and legal aid, access to appropriate accommodation and material support, as well as to medical treatment and psychological assistance, and the right to compensation. In terms of **protection measures**, they oblige EU Member States to ensure access to witness protection programmes and to implement measures to avoid **repeat and secondary victimisation** during the investigation and criminal proceedings when deemed necessary based on an individual assessment. The Victims' Rights Directive applies to all victims of crimes committed in the EU, regardless of their nationality and migration status in the EU. The Anti-trafficking Directive applies solely to victims of trafficking in human beings, although EU Member States are not obliged to continue to provide assistance and supports to third-country nationals who, upon expiry of the reflection period, reside unlawfully in a Member State, except where necessary (such as continuing medical treatment) (Recital 18). Building on these two Directives, the Residence Permit Directive establishes additional obligations for EU Member States with respect to some of the rights of victims, notably the right to information, translation and interpretation, legal counselling and representation, accommodation, material support, medical treatment and psychological support, and access to integration measures.

**Within the EU asylum acquis**, Directives 2011/95 ('the Qualification Directive'), 2013/32 ('Asylum Procedures Directive') and 2013/33 ('Reception Conditions Directive') contain certain provisions dealing with the information provided to applicants during the asylum procedure and upon a positive decision, legal representation and counselling during the appeal procedure, appropriate accommodation and material support, access to medical treatment and psychological assistance, and access to integration programmes. For applicants who are subject to a Dublin transfer, Regulation 604/2013 ('Dublin III Regulation') establishes obligations concerning the provision of information.

(Presumed) victims who hold a residence permit **may also be covered by the EU legal migration acquis**, such as the Single-Permit Directive, the Seasonal Workers Directive, and the Students and Researchers Directive. Other directives may also apply, albeit less likely, such as the Long-term Residence Directive, Directive 2003/86 (Family Reunification Directive), EU Blue Card Directive, and the ICTs Directive. These directives do not make explicit reference to assistance and support measures available to (presumed) victims of crimes, but, rather, establish the right of legally residing third-country nationals to equal treatment, including in the area of social assistance.

At national level, countries also have legal frameworks in place to provide support and protection to (presumed) victims of trafficking in human beings, with some going beyond the minimum standards set out in the EU legislative instruments. The remainder of this section provides an overview of the main types of assistance they provide to (presumed) victims in different situations, namely those in the reflection period, asylum seekers and individuals who are subject to a Dublin transfer process, third-country nationals who have a residence status, and those who are legally in the EU for a short period of time (with a short-term visa or visa-free). States generally do not require formal identification of a victim before they provide access to support and protection measures, with some exceptions (presented in the sub-sections below).

### 3.2.1. Information and counselling

The EU acquis includes several obligations in respect of the provision of information to (presumed) victims of trafficking, or which also apply to this group (Table 6).

**Table 6: Applicable EU acquis on information and counselling**

EU acquis	Relevant provisions
<b>Anti-trafficking Directive</b>	Information on the reflection period (Article 11) Information on international protection (Article 11)
<b>Residence Permit Directive</b>	Information on the reflection period (Article 5)
<b>Victims' Rights Directive</b>	EU Member States should take appropriate measures to ensure that victims understand and are understood from their first contact with a national authority and throughout the criminal proceedings (Article 3)  Victims should be informed of their rights, e.g. the right to access support and protection measures, to compensation (Article 4) and any procedural aspects and information related to their case (Article 5)  Article 9 foresees the possibility for some of this information to be provided by victim support services and stipulates that victims should also receive information and advice on the risk and prevention of secondary or repeat victimisation, intimidation and retaliation
<b>Asylum acquis</b>	Persons in detention or at border crossing points who wish to apply for asylum shall be given information on the procedure (Asylum Procedures Directive, Article 8)  Information on rights, obligations and consequences (Asylum Procedures Directive, Article 12)  Benefits and obligations relating to reception conditions and organisations providing assistance, including legal assistance, information on reception conditions and healthcare (Reception Conditions Directive, Article 5)  For those in detention centres, information on the rules of the facility (Reception Conditions Directive, Article 10).

The type of information provided to third-country nationals who are (presumed) victims of trafficking in human beings in various situations (in the reflection period, in the asylum procedure, subject to a Dublin III transfer, holding a residence permit, or staying in the EU with a short-term visa or visa-free), can be broken down into two main categories: a) information and counselling relating to the support and assistance measures available and other general information (**information and counselling**), and; b) information on the risk of secondary and/or repeat victimisation, and access to protection measures to avoid it (**information on risks and protection measures**).

Fourteen EU Member States, Norway and Georgia provide both categories of information, across all the situations covered here.<sup>342</sup> In the remaining EU Member States, only one category of information is provided, or the

information made available only covers certain situations. Some EU Member States only provide (presumed) victims with information on their right to assistance or on risks and protection measures in the reflection period.<sup>343</sup> In Greece and Portugal, access to information is not guaranteed for (presumed) victims who are holders of short-term visas or who are in the EU visa-free, while Hungary does not grant access to those within Dublin III procedures.

The stakeholders that ensure access to information to (presumed) victims vary across the EU Member States, Norway and Georgia, and often depend on the category of information provided, or the situation or procedure in question. Civil society organisations<sup>344 345</sup> and municipalities<sup>346</sup> are those most involved in providing or ensuring

342 AT, BE, BG, CY, CZ, EE, FI, FR, HR, IE, IT, LU, SE, SI, SK and NO, GE (the right to information covers all situations covered in the report, with the exception of Dublin III procedures, as the Dublin III Regulation does not apply to Georgia (this clarification applies to all rights covered in this section).

343 CZ, ES.

344 Information and counselling: AT, BE, BG, CY, CZ, ES, FI, FR, HR, IE, LT, LU, NL, PL, PT, SI, SK and NO (reflection period); AT, BE, BG, CY, EL, ES, FI, FR, HR, IE, LT, LU, SI, SK and NO (Dublin III); AT, BE, BG, CY, EL, ES, FI, FR, HR, LT, LU, SI, SK and NO (asylum procedure); AT, BE, BG, CY, ES, FI, FR, HR, LU, NL, SI, SK and NO (short-term visa holders/visa-free). Information on risks and protection measures: AT, BE, BG, CY, CZ, ES, FI, FR, HR, HU, IE, LU, LV, NL, SE, SI, SK and NO (reflection period); AT, BE, CY, ES, FI, FR, HR, IE, LU, LV, SI, SK and NO (Dublin III); AT, BE, BG, CY, ES, FI, FR, HR, HU, IE, LU, SI, SK and NO (asylum procedure); AT, BE, CY, ES, FI, FR, HR, HU, IE, LU, LV, SI, SK and NO (residence permit holders); AT, BE, CY, ES, FI, FR, HR, HU, LV, SE, SI, SK and NO (short-term visa holders/visa-free). In FI, limited services complementing official services by the National Assistance System and/or municipalities.

345 Luxembourg, for example, provides support to victims of trafficking in human beings exclusively or partly by civil society organisations accredited by the State. 'Civil society organisations' should be understood to cover these types of organisations here.

346 Information and counselling: BG, DE, LT (reflection period); BG, DE, EE, EL (Dublin III); BG, DE, EL (asylum procedure); BG, FI (residence permit holders); BG, IT (short-term visa holders/visa-free). Information on risks and protection measures: BG, DE, IT, SE (reflection period); BG, DE, IT, PL, SE (Dublin III); BG, DE, IT, PL, (asylum procedure); BG, DE, IT (residence permit holders); BG, IT and GE (short-term visa holders/visa-free).

access to information, counselling and information and risks and protection measures (Table A1.3).

Law enforcement agencies ensure access to information on risks and protection mechanisms in many EU Member States, Norway and Georgia.<sup>347</sup> In fewer EU Member States, they have a role in ensuring access to information on the rights and assistance available to victims of trafficking.<sup>348</sup> International organisations can also provide information to (presumed) victims who are in the asylum procedure (including in the context of Dublin transfers).<sup>349</sup>

In the majority of EU Member States and Georgia, information is provided to (presumed) victims through specialised units or individuals, such as case workers in the asylum services, victim support services, contact points within NRMs, hotlines, or a specialised department within the police.<sup>350</sup> For example, in Estonia, an anti-trafficking hotline has been operating since 2004 with an aim to raise public awareness and provide counselling to victims in Estonian, English and Russian. In Finland, the National Assistance System for Victims of Trafficking in Human Beings – the main provider of all different types of assistance and protection to victims of trafficking – helps hundreds of victims each year. Apart from the concrete assistance and protection it provides, it is a national centre of expertise that provides information to victims themselves as well as authorities and other persons who come into contact with victims

### Box 17: Good practices in the provision of information

- In Sweden, Regional Coordinators function as regional focal points and first points of contact for operative support in cases of trafficking, acting as a link in efforts to combat trafficking in human beings at regional and national level. Coordinators are an important part of the support and protection process for victims of human trafficking, and also support professionals who encounter cases involving human trafficking. They are specifically tasked with assisting authorities, including the police and social services, by providing support in human trafficking cases, assisting victims, and ensuring they receive the protection and support they need.
- In Ireland, (presumed) victims of trafficking are visited by a Crime Prevention Officer (CPO) from the police, who advises them about their personal safety and security, including cutting contact and protecting themselves from their traffickers. The Irish Department of Justice published a 'Guide to Procedures for Victims of Human Trafficking' (2011), which contains information on the steps followed in trafficking cases. The guidelines are drafted in plain English to ensure that (presumed) victims can easily understand them.

## 3.2.2. Translation and interpretation

The right to translation and interpretation is recognised in most of the relevant legal instruments covered in this report (Table 7).

**Table 7: Applicable EU acquis on translation and interpretation**

EU acquis	Relevant provisions
<b>Anti-trafficking Directive</b>	(Presumed) victims should benefit from translation and interpretation services where appropriate (Article 11)
<b>Residence Permit Directive</b>	Translation and interpretation during the reflection period (Article 7)
<b>Victims' Rights Directive</b>	Translation and interpretation in the context of the criminal proceeding (Article 7)
<b>Asylum acquis</b>	Information should be provided in a language that applicants for international protection can understand (Qualification Directive, Article 22; Reception Conditions Directive, Article 5)  Applicants shall receive the services of an interpreter when necessary (Asylum Procedures Directive, Articles 8 and 10(1)(b))

At national level, access to translation and interpretation is guaranteed for (presumed) victims in just over half of the reporting EU Member States, Norway and Georgia.<sup>351</sup> Other EU Member States provide translation and interpretation only in certain situations.<sup>352</sup> For example, (presumed) victims who hold a residence permit are excluded

in Greece, Lithuania, and Latvia, while short-term visa holders or visa-free (presumed) victims are excluded in Greece, Lithuania, Poland and Portugal. In Lithuania, access to translation and interpretation services is limited to some contexts, with these services provided only within the context of legal proceedings. In Hungary, they are

<sup>347</sup> Information on risks and protection measures: BE, CZ, EE, ES, FR, IE, IT, LT, LU, NL, PL, PT, SE and NO (reflection period); BE, EE, IE, IT, LU, LV, PT and NO (Dublin III); BE, EE, IE, IT, LU, LV, PT, SE and NO, GE (asylum procedure); BE, DE, EE, FR, IE, IT, LU, PT, SE and NO, GE (residence permit holders); BE, EE, FR, IT, LU, SE and NO, GE (short-term visa holders/visa-free).

<sup>348</sup> Information and counselling: CZ, DE, EL, ES, IE, IT, LT, NL and NO (reflection period); DE, EL, IE, IT, NL and NO (Dublin III); DE, EL, IE, IT, NL and NO (asylum procedure); IE, IT and NO, GE (residence permit holders); IT and NO (short-term visa holders/visa-free).

<sup>349</sup> IE, IT, LU, SE and NO, GE.

<sup>350</sup> BE, BG, CY, CZ, DE, EE, EL, ES, FI, FR, HR, HU, IE, IT, LU, NL, PL, SE, SK and GE.

<sup>351</sup> AT, BE, BG, CY, CZ, EE, ES, FI, FR, HR, IE, IT, LU, NL, SE, SI, SK and NO, GE.

<sup>352</sup> EL, HU, LT, LV, PL, PT.



not granted to (presumed) victims within the Dublin III procedure.

During the reflection period, the main bodies and/or organisations competent to provide access to translation and interpretation are municipalities, and civil society organisations,<sup>353</sup> followed by the police.<sup>354</sup> France reported that the stakeholders providing information to (presumed) victims during the reflection period do confidentially and in a language they can understand, thereby enhancing trust and ensuring protection.

Beyond the reflection period, municipalities and civil society organisations continue to be the most frequently relied on organisations ensuring access to translation and interpretation.<sup>355</sup> For (presumed) victims in the EU on a short-term visa or visa-free, the role of the municipality is more limited, however, with civil society organisations becoming the main authority ensuring access to this right. In the Netherlands, State-funded translation and interpretation services (lawyer, specialised support or accommodation services, prosecutor, etc.) are available for all relevant stakeholders.

### Box 18: Good practice in translation and interpretation services

In Germany, the Federal Office for Migration and Refugees has appointed specially commissioned case officers for victims needing specific protection (e.g. minors, victims with disabilities), who must hire a sign language interpreter during interviews, when necessary.

### Box 19: Challenges in the right to translation and interpretation

Croatia and Lithuania pointed to a lack of translators and interpreters. In Lithuania, the lack of interpreters from certain third countries (e.g. Cambodia, Nepal, Thailand) constitutes an obstacle to provide (presumed) victims with adequate legal counselling. In France, interpreters and translators are available, but often lack the skills and knowledge to understand the specific needs of victims of trafficking in human beings (e.g. unaware of the legal procedures, childhood development or psychological trauma). Accordingly, the Criminal Intelligence Service in Austria plans to hire intercultural mediators from the countries of origin of significant numbers of victims of trafficking.

### 3.2.3. Legal assistance and legal aid

(Presumed) victims are granted a right to legal assistance and legal aid through different directives (Table 8).

**Table 8: Applicable EU acquis on legal assistance and legal aid**

EU acquis	Relevant provisions
<b>Anti-trafficking Directive</b>	Victims of trafficking in human beings have a right to legal counselling and representation (free of charge if the person does not have sufficient resources) as a measure to protect them during criminal investigations (Article 12)
<b>Residence Permit Directive</b>	(Presumed) victims are entitled to legal representation and to access legal aid if they do not have sufficient resources (Article 7)
<b>Victims' Rights Directive</b>	Victims are entitled to legal aid if they are parties to criminal proceedings, under the conditions established by national law (Article 13).
<b>Asylum acquis</b>	Applicants are entitled to legal assistance and representation (at their own cost) at any stage of the asylum procedure (Article 22(1)). Free legal assistance and representation can also be granted to applicants upon request, during the appeal procedure, and under certain conditions (Asylum Procedures Directive, Article 20)

Almost all of the states allow (presumed) victims of trafficking to access legal counselling and representation during the reflection period.<sup>356</sup> Once the reflection period has elapsed, the extent to which access is granted to (presumed) victims in the situations covered varies. In around

half of the EU Member States, Norway and Georgia, the right can be exercised by (presumed) victims.<sup>357</sup>

By contrast, in some EU Member States, (presumed) victims do not have the right to legal representation and legal aid.<sup>358</sup> This is the case for (presumed) victims under

<sup>353</sup> BE, BG, CZ, DE, FI, FR, LT, LU, LV, NL, PL, SE, SI, SK (where a victim enters a programme of support run by an NGO).

<sup>354</sup> CZ, DE, EL, ES, FR, IE, IT, SE, SK.

<sup>355</sup> Municipality: BG, DE, EL, LT, PL (Dublin III); BG, DE, EL, LT, PL (asylum procedure); BG, EL, FI (residence permit holders); BG (short-term visa holders/visa-free). NGOs/civil society organisations: BE, FI, FR, LU, NL (Dublin III); BE, FI, FR, LT, LU, NL (asylum procedure); BE, ES, FI, FR, LU, NL, SK (residence permit holders); BE, ES, FI, FR, LT, LU, NL, SK (short-term visa holders/visa-free). Regarding civil society organisations in FI; limited services complementing official services by the National Assistance System and/or municipalities.

<sup>356</sup> AT, BE, BG, CY, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, LU, NL, SE, SI, SK and NO, GE.

<sup>357</sup> AT, BE, BG, EE, FI, FR, HR, IE, IT, LU, NL, SI and NO, GE.

<sup>358</sup> DE, EL, LT, LV (identified victims have access to legal representation, but presumed victims have access to this right only within the Dublin III and asylum procedures), PT, SK.

the Dublin III procedure,<sup>359</sup> those who hold a short-term visa,<sup>360</sup> who are in the EU visa-free,<sup>361</sup> or who hold a residence permit.<sup>362</sup>

Several EU Member States and Georgia reported additional measures to ensure that minor or unaccompanied minor (presumed) victims of trafficking are legally represented and supported.<sup>363</sup> Some always assign a legal representative to victims who are underage,<sup>364</sup> which is not always the case for adult victims. In Cyprus, a legal representative is only assigned, when the parents/guardians of the minor do not ensure the best interest of their child. In Lithuania, they are also provided with legal services. In Luxembourg, (presumed) victims who are unaccompanied minors are appointed an ad hoc administrator to assist them with legal proceedings, including, if necessary, in the context of criminal proceedings.

The main stakeholders ensuring access to legal counselling and representation are municipalities,<sup>365</sup> civil society organisations,<sup>366</sup> and legal aid providers such as special

boards or network of lawyers.<sup>367</sup> In Luxembourg, legal aid is provided through the bar association and financed by the Ministry of Justice. During the reflection period, the police play a greater role than in other relevant situations.<sup>368</sup> Together with municipalities, they are the second-most referred stakeholder ensuring access to legal counselling and representation during the reflection period. Within the asylum procedure, municipalities are more frequently involved,<sup>369</sup> as are lawyers,<sup>370</sup> and civil society organisations.<sup>371</sup>

#### Box 20: Challenges in the provision of access to legal representation and legal aid

Cyprus and France reported shortcomings in the provision of appropriate legal aid services to (presumed) victims that could negatively affect their case, noting that the late appointment of a trained legal representative for minors sometimes prevents their early identification as victims of trafficking.

### 3.2.4. Appropriate and safe accommodation

The relevant EU acquis includes several standards related to the provision of accommodation to (presumed) victims of trafficking in human beings, including in the asylum procedure (Table 9).

**Table 9: Applicable EU acquis on appropriate and safe accommodation**

EU acquis	Relevant provisions
<b>Anti-trafficking Directive</b>	Assistance support measures provided to victims shall include “at least standards of living capable of ensuring victims’ subsistence through measures such as the provision of appropriate and safe accommodation” (Article 11(5))
<b>Victims’ Rights Directive</b>	Victims should have “appropriate interim accommodation in a safe place” as one of the measures that must be provided by specialist support services (Article 9(3)).
<b>Asylum acquis</b>	EU Member States should ensure that material reception conditions providing an “adequate standard of living” is available for applicants (Article 17), with the choice to make this conditional on insufficient means (Article 17(3)) or to contribute to their cost if they have sufficient means (Article 17(4)). Housing can be provided in kind, more specifically through premises used to house applicants during the asylum process, accommodation centres or other arrangements (private houses, flats, hotels, etc.) (Reception Conditions Directive, Article 18).  Access to accommodation for unaccompanied minors (Article 31) and beneficiaries of international protection (Qualification Directive, Article 32).

359 DE, ES, HU, PT, SK.

360 DE, HU, PT.

361 DE, EL, LT, PT.

362 LV.

363 ES, FI, FR, IT, LT, LU, SI and GE.

364 DE, FR, IE, HU, LT, LU, LV, PL, SE, SI and NO.

365 BG, LT and NO (reflection period); BG and NO (Dublin III); BG and NO (asylum procedure); BG, FI, LT and NO (residence permit holders); BG and NO (short-term visa holders/visa-free).

366 AT, BG, CZ, DE, FI, FR, HR, HU, IE, LT, NL, PL, SI and NO (reflection period); AT, BG, FI, HR, IE, NL, SI and NO (Dublin III); AT, BG, DE, FI, HR, HU, IE, NL and NO (asylum procedure); AT, BG, ES, FR, FI, FR, HR, HU, IE, LV, NL, SI and NO (residence permit holders); AT, BG, DE, ES, FI, FR, HR, HU, IE, LT, LV, NL, SI and NO (short-term visa holders/visa-free). In FI; limited services complementing official services by the National Assistance System and/or municipalities.

367 BE, CY, DE, EE, ES, IE, LU, NL, SE, PT and NO, GE (reflection period); BE, CY, EE, IE, LU, NL and NO, GE (Dublin III); BE, CY, DE, EE, ES, IE, LU, NL, SE and NO, GE (asylum procedure); BE, CY, EE, IE, LU, NL, PT, SE and NO, GE (residence permit holders); BE, CY, DE, EE, IE, LU, NL and NO, GE (short-term visa holders/visa-free).

368 CZ, DE, EE, EL, IT, LT, SE.

369 BG, DE.

370 DE, ES, LU, NL, SE and NO.

371 AT, BE, BG, DE, FI, FR, HR, IE, NL.

The majority of the EU Member States, Norway and Georgia indicated that accommodation was provided to (presumed) victims in all situations,<sup>372</sup> while other EU Member States do so only for (presumed) victims in some of the situations described here,<sup>373</sup> for example only during the reflection period.<sup>374</sup> In Lithuania, (presumed) victims in a reflection period are accommodated together with their family members, but separately from other residents in the reception centre. Other EU Member States do not provide specific accommodation for presumed victims in the context of Dublin III procedures,<sup>375</sup> or deny access to accommodation to (presumed) victims in the EU under a short-term visa or visa-free regime,<sup>376</sup> or with a residence permit. In Ireland, during the reflection period, (presumed) victims are offered a place in reception centres run by the International Protection Accommodation Services (IPAS). After 60 days if they are not international protection applicants, they are required to find independent accommodation, but in practice the IPAS can allow them to remain in the reception centre for longer periods. Conversely, the Netherlands allows (presumed) victims who hold a residence permit to access shelter under the same conditions as nationals, while France considers them a priority group for social housing.

Some EU Member States conduct individual assessments to determine the need for accommodation and shelter, or to ensure that the reception and accommodation arrangements are adequate to the specific needs of the (presumed) victim,<sup>377</sup> with Germany (some Landers only), Lithuania and Slovenia carrying out a vulnerability assessment for every (presumed) victim, for example.

In nearly all countries, access to accommodation is primarily ensured by civil society organisations<sup>378</sup> or municipalities.<sup>379</sup> In some cases, those civil society organisations are State-certified, as for example in Germany. In the Netherlands, a State-certified NGO is responsible for placing all unaccompanied minors aged 4 or younger in foster families. In other cases, civil society organisations may complement the services of the national authorities, e.g. in Finland, civil society organisations may provide safe accommodation in cases where the victim is not entitled or is unwilling to accept assistance from the authorities. However, civil society organisations provide safe accommodation only in exceptional situations within the scope of their activities and limited resources. In Belgium, accommodation is provided by the three recognised specialised centres (NGOs) for victims of trafficking.

Other types of stakeholders play a role in certain contexts. For instance, the police ensure access to accommodation during the reflection period in several EU Member States.<sup>380</sup> In a small group of EU Member States, they do so for (presumed) victims within the asylum and/or

Dublin III procedures.<sup>381</sup> In some EU Member States, a dedicated national agency or commission is responsible for providing accommodation, although the circumstances vary.<sup>382</sup> In Germany, this only applies for the reflection period, while in France and the Netherlands, dedicated agencies/ structures play a role in supporting (presumed) victims independent of their migration status (who hold a residence permit or who are in the EU under a short-term visa or are visa-free, or irregularly staying on the territory). In Finland, the National Assistance System provides safe accommodation and other services when the victim does not hold a residence permit and thus does not have a municipality of residence to provide those services. In Luxembourg, (presumed) victims of human trafficking who are also applicants for international protection are generally accommodated in the reception facilities for applicants for international protection. However, depending on the victims' specific needs, age, sex, background and vulnerability/risk, they may be placed in facilities approved by the Ministry of Equality between Women and Men (MEGA) or the Ministry of National Education, Children and the Youth (MENJE), or placed in a secret location by the police for safety reasons. This is evaluated in close collaboration with the assistance services for victims of trafficking in human beings, the police and the National Reception Office (ONA).

International organisations are competent to provide accommodation in Greece, Luxembourg and, notably within asylum and Dublin III procedures. In Greece, residence permit holders under international protection who are already residing in temporary accommodation centres are supported through the HELIOS programme. HELIOS is funded directly by the European Commission, implemented by the IOM and its partners, and monitored by the Directorate of Social Integration of the Ministry of Migration and Asylum. The programme helps beneficiaries to gain access to independent housing, by networking with apartment owners and providing subsidies to cover rental costs for up to 12 months, as well as a one-off subsidy for relocation costs.

### Box 21: Challenges in providing accommodation to victims of trafficking

- In Ireland, the lack of specialised accommodation facilities for victims of trafficking in human beings has been subject to criticism from NGOs and international bodies. The 2017 GRETA report on Ireland detailed the ways in which reception centres were not appropriate for victims of trafficking in human beings, primarily due to the lack of gender-sensitive accommodation and a lack of separation from other residents. The addresses of reception centres are also publicly available.

372 AT, BE, BG, CY, CZ, DE, EE, FI, FR, HR, IT, LU, LV, NL, PL, SE, SI, SK and NO, GE, NO.

373 DE, EL, ES, HU, IE, LT, PT.

374 PL.

375 ES, MT, PL, PT.

376 EL, LT, PL, PT.

377 BE, CY, DE, HR, LT, FI, SE, SI and NO.

378 During reflection period: AT, BE, BG, CY, CZ, DE, FI, FR, HR, IT, LT, LU, LV, NL, PL, PT, SI and NO; Dublin III: AT, BE, BG, CY, EL, FI, HR, IT, SI, NO; During asylum procedure: AT, BE, BG, CY, DE, EL, FI, HR, IT, NL, SI and NO; Residence permit holder: AT, BE, BG, CY, FI, HR, IT, LT, LU, LV, PT, SI, SK and NO; Short-term visa holders/visa-free: AT, BE, BG, CY, FI, HR, IT, LT, LU, LV, SI, SK and NO.

379 During reflection period: BG, IT, LT, SE and NO; Dublin III: BG, EL, IT, LT; During asylum procedure: BG, EL, IT; Residence permit holder: BG, FI, IT and NO, Short-term visa holders/visa-free: BG.

380 CZ, DE, IE, NL, SK.

381 EL, LU (by exception, depending on the victim's specific needs), SK.

382 DE, EE, ES, FI, FR, NL.

- Some EU Member States reported insufficient housing support.<sup>383</sup> Italy has a lack of protected sites (so-called safe houses and/or emergency intervention) where victims identified at the time of arrival or identified in the context of inspection

visits can be transferred and separated from their perpetrators. In France there is a lack of dedicated and adapted accommodation structures for minors who are victims of trafficking in human beings.

### 3.2.5. Subsistence (material assistance)

Several directives applying (also) to victims of trafficking include a right to subsistence (material assistance), although this may be conditional (Table 10).

**Table 10: Applicable EU acquis on material assistance**

EU acquis	Relevant provisions
<b>Anti-trafficking Directive</b>	Subsistence and material assistance are to be provided to (presumed) victims (Article 11)
<b>Residence Permit Directive</b>	Subsistence and material assistance are to be provided to (presumed) victims in the reflection period (Article 7) and to those who cooperate with competent authorities and do not have sufficient funds (Article 9)
<b>Asylum acquis</b>	Material reception conditions – including food, clothing, and financial allowances – are to be made available to asylum applicants (Article 17), an obligation which may be made subject to the condition of insufficient resources (Reception Conditions Directive, Article 17(3)).  Access to social welfare for beneficiaries of international protection (Qualification Directive, Article 29)

(Presumed) victims who are third-country nationals are most commonly provided with subsistence (material assistance) during the reflection period. Once the reflection period has elapsed, asylum seekers – including those under a Dublin III transfer process – continue to have access to material assistance in the majority of EU Member States and Norway.<sup>384</sup> A slightly lower share provide subsistence to (presumed) victims legally residing in their territory,<sup>385</sup> while only a minority do so for those in the EU under a short-term visa or who are visa-free.<sup>386</sup> In Georgia, subsistence is provided in the form of one-off compensation to all victims in the situations covered here (with the exception of Dublin III procedures, as Georgia is not a Dublin-associated country).

To determine the amount of the financial assistance, France uses flat rates that are dependent on fixed, general criteria, while other EU Member States take into account the individual needs of the victim.<sup>387</sup> In Luxembourg, upon formal identification by the Judicial Police, the (presumed) victim may be provided with material assistance by approved victim support services for victims

of trafficking in human beings (assistance services) on the basis of a reasoned proposal from these services to the Minister of Equality between Women and Men. This material assistance may be provided in cash or in kind but cannot exceed the amount granted to applicants for international protection. In Ireland, (presumed) victims of trafficking who live in reception centres (including asylum applicants) can access the fixed weekly allowance. For victims of trafficking not in reception centres, social welfare officers can, at their discretion, grant access to social welfare payments.

Access to material support is primarily ensured by municipalities,<sup>388</sup> civil society organisations,<sup>389</sup> and ministries (usually in the context of asylum and Dublin III procedures).<sup>390</sup> However, in Estonia, Germany, Finland and Georgia, financial assistance is provided by a national agency or commission, while in Hungary, it is provided by county government offices. In Czech Republic, the police ensure access to this right during the reflection period. In Austria and Luxembourg, victim support organisations play a role in this area for all groups of (presumed) victims.

383 EL, FR, IT.

384 AT, BE, BG, CZ, DE, EE, ES, FI, FR, IE, IT, LT, LU, LV, NL, PL, SK; NO (asylum and Dublin III procedures).

385 AT, BE, BG, CY, DE, EE, ES, FI, FR, IE, IT, LU, NL, PT, SE, SI, SK and NO, GE (only to identified victims).

386 AT, BE, BG, CY, EE, ES (all victims have the right, regardless of their legal status), FI, GE, IE, IT, LU, LT, NL, SI, SK and NO, GE.

387 IE, LU.

388 BE, BG, IT, LT, SE (reflection period); BE, BG, DE, LT, SE (Dublin III); BE, BG, DE, IT, LT, SE (asylum procedure); BE, BG, FI, IT, NL, SE (residence permit holders); BE, BG (short-term visa holders/visa-free).

389 AT, BE, BG, CY, CZ, FI, LU, PL (reflection period); AT, BE, BG, FI, LU (Dublin III); AT, BE, BG, FI, IT, LU (asylum procedure); AT, BE, BG, CY, ES, FI, IT, LU (residence permit holders); AT, BE, BG, ES, FI, LU, SE (short-term visa holders/visa-free). In ES and LU, this assistance is provided by accredited NGOs. In FI, limited services complementing official services by the National Assistance System and/or municipalities. In the Slovak Republic this assistance is provided to all victims who entered the Programme of support.

390 CZ, ES, FR, IE, IT, NL (reflection period); CZ, ES, FR, IT, LT, LV, NL, SK (provided that the person is accommodated in an asylum facility) and NO (Dublin III); CZ, ES, FR, IE, IT, LT, LV, NL, SK (provided that the person is accommodated in an asylum facility and NO (asylum procedure); CY, CZ, FR, IE, IT, NL (residence permit holders); CY, CZ, IE, IT, NL (short-term visa holders/visa-free). In Spain health services are the responsibility of regional authorities.

### 3.2.6. Medical assistance and treatment

All (presumed) victims of trafficking should have access to emergency medical treatment, with access to general healthcare possibly restricted in some situations (Table 11).

**Table 11: Applicable EU acquis on medical assistance and treatment**

EU acquis	Relevant provisions
<b>Anti-trafficking Directive</b>	Access to necessary medical treatment to victims of trafficking in human beings (Article 11(5))
<b>Residence Permit Directive</b>	During the reflection period, the obligation to medical assistance is limited to emergency medical treatment (Article 7)  (Presumed) victims who cooperate with competent authorities should be guaranteed emergency medical treatment (Article 9(1)) and other types of medical treatment for those with special needs (e.g. pregnant women, disabled or victims of sexual violence or other forms of violence, minors) and insufficient resources (Article 9(2))
<b>Asylum acquis</b>	Applicants are entitled to necessary healthcare (including at least emergency care and essential treatment of illnesses, but also any other necessary medical assistance to applicants with special reception needs, such as victims of torture and violence) (Reception Conditions Directive, Articles 19 and 25).  Access to healthcare under the same conditions as nationals (Qualification Directive, Article 30).

The majority of EU Member States, Norway and Georgia reported providing medical assistance to all (presumed) victims of trafficking who are third-country nationals, regardless of the situation.<sup>391</sup> Slovenia and the Netherlands specified that access to emergency medical assistance also covered those in an irregular migration situation. By contrast, some EU Member States only guarantee access to medical assistance to (presumed) victims of trafficking in certain situations.<sup>392</sup> One EU Member State, for instance, only do so during the reflection period.<sup>393</sup> In Germany, the extent to which (presumed) victims have access to medical treatment depends on their residence status and the Länder in which they reside.

Municipalities are most frequently responsible for ensuring access to this right.<sup>394</sup> Civil society organisations also play a role, particularly during the reflection period, where they are competent to ensure access to medical treatment in several EU Member States and Norway.<sup>395</sup> Ministries were more often cited within the context of Dublin III procedures and with respect to (presumed) victims who are residence permit holders.<sup>396</sup> In a small number of (Member) States,<sup>397</sup> the police also play a role in certain situations, for instance during the reflection period in Czech Republic, and for (presumed) victims who are asylum applicants, or who have a residence permit in Italy. In Italy, the police also ensure access to medical treatment for (presumed) victims in the EU under a short-term visa or who are visa-free.

### 3.2.7. Psychological assistance

In the EU acquis, the right of (presumed) victims of trafficking in human beings to receive psychological assistance is regulated in the same way as the right to medical assistance (Table 11), as the relevant EU legislation views psychological assistance as part of the medical treatment for (presumed) victims. Only the Victims' Rights Directive makes explicit reference to emotional and psychological support as one of the measures that should be provided by victim support services (Article 9.1(c)).

More than half of the EU Member States covered by this study, Norway Georgia grant access to psychological assistance in all situations.<sup>398</sup> Countries tend to pay particular attention when the (presumed) victim is a minor, however. Slovenia reported special safeguards for minors compared to other (suspected) victims of abuse, exploitation and inhuman treatment, including access to rehabilitation and psychological treatment.

Latvia does not guarantee access to psychological assistance to (presumed) victims who have a residence permit or who are in the EU under a short-term visa or visa-free. Additionally, Latvia does not grant access to psychological support to (presumed) victims during the reflection period. In Greece and Sweden, only visa-free (presumed) victims or those on short-term visa are not granted access to psychological assistance, while in Hungary and Spain it is those within the Dublin III procedure. Portugal covers both (presumed) victims within the reflection period and those holding a residence permit.

391 AT, BE, BG, CZ, EE, ES, FI, FR, HR, IE, IT, LT, LU, LV, NL, SE, SI, SK and GE, NO.

392 DE, EL, HU, PL, PT.

393 PT.

394 ES, IT, LT and NO, GE (reflection period); DE, EL, ES, IT and NO (Dublin III), DE, EL, ES, PL, and NO, GE (asylum procedures); EL, ES, FI, IT and NO, GE (residence permit holders); ES, IT and GE (short-term visa holders/visa-free).

395 AT, CZ, FI, LT, LU, LV, NL, PL and NO. In FI; limited services complementing official services by the National Assistance System and/or municipalities.

396 BG, DE, EL, IE, IT, LV, NL (Dublin III); DE, EL, IE IT (residence permit holders).

397 CZ, IE, IT.

398 AT, BE, CY, CZ, DE, EE, FI, FR, HR, IE, IT, LT, LU, NL, SE, SI, SK and NO, GE.

Like the provision of medical assistance, municipalities most frequently ensure access to psychological support for (presumed) victims,<sup>399</sup> with civil society organisations the next most-frequent provider.<sup>400</sup> In some EU Member States and Georgia, the relevant ministry is responsible for referring victims to these services,<sup>401</sup> while in others, the police play a role in providing access to psychological support in certain situations, for instance during the reflection period,<sup>402</sup> and for (presumed) victims who are asylum applicants.<sup>403</sup> In Ireland, the Health Service Executive (HSE) can refer victims for psychological support.

### Box 22: Good practices in the provision of psychological assistance

In Luxembourg, the assistance provided during the reflection period includes informal ambulatory psychosocial support for victims who, for a myriad of reasons (e.g. lack of trust, denial, trauma, fear, threat) do not want to go to the police to be formally identified. The objective is to help them to build the confidence to do so.

### 3.2.8. Social and economic integration through access to employment and education

Some of the relevant EU legislation establishes the right of (presumed) victims to benefit from measures facilitating their integration into the host society (Table 12).

**Table 12: Applicable EU acquis on social and economic integration**

EU acquis	Relevant provisions
<b>Residence Permit Directive</b>	EU Member States should define the rules under which victims of trafficking who are cooperating with competent authorities can access the labour market, vocational training and education (Article 11)
<b>Asylum acquis</b>	Asylum applicants are entitled to access the labour market no later than nine months after the application for international protection was lodged, under the conditions set in national law (Article 15). EU Member States may also choose to grant access to vocational training to applicants (Article 16), but they are obliged to ensure that minors can access the education system under similar conditions as their own nationals for their entire stay in the country (Reception Conditions Directive, Article 14).  Beneficiaries of international protection have access to employment (Article 26) and education and training (Article 27) under the same conditions as nationals. Access to integration facilities should also be provided (Qualification Directive, Article 34).

In nearly half of the EU Member States, Norway and Georgia, (presumed) victims are entitled to access social and economic integration programmes in all situations covered.<sup>404</sup> Other EU Member States only grant access to integration programmes in certain situations,<sup>405</sup> such as during the reflection period.<sup>406</sup> In Germany, access to these programmes during the reflection period, or in the context of the asylum procedure, is limited, with the employment permit depending on the origin and duration of stay of the victim. In Greece, only those that have been granted international protection are provided with language and cultural orientation courses, or courses to prepare them

for the labour market or develop other skills to access employment support.

Ensuring access to social and economic integration programmes is usually the exclusive responsibility of a municipality,<sup>407</sup> or provided by civil society organisations.<sup>408</sup> Conversely, in Czech Republic, the police play a role (also) during the reflection period, while in Estonia and Italy, the relevant ministry ensures access to integration programmes for all (presumed) victims covered. Greece, international organisations support the integration of those benefiting from international protection, in particular through the integration courses offered under

399 AT, BG, CY, DE, LT and NO (reflection period); AT, BG, DE, EL, PL and NO (Dublin III); AT, BG, DE, LT, PL and NO (asylum procedures); AT, BG, EL, FI and NO (residence permit holders); AT, BG and NO (short-term visa holders/visa-free).

400 AT, BE, BG, CZ, FI, FR, LT, LU, PL, SI (reflection period); AT, BE, BG, ES, EL, FI, FR, LU, SI (Dublin III); AT, BE, BG, CY, EL, FI, FR, LT, LU, SI (asylum procedures); AT, BE, BG, CY, ES, FI, FR, HU, LT, LU, SI (residence permit holders); AT, BE, BG, ES, FI, FR, HU, LT, LU, SI (short-term visa holders/visa-free). In FI; limited services complementing official services by the National Assistance System and/or municipalities.

401 BG, CY, EL, ES (Asylum Office) HU, IT, LU, LV and GE.

402 CZ, ES, GE.

403 EL, LV and GE.

404 AT, BE, BG, CY, ES, FI, HR, IT, LU, SI and NO, GE. In Finland, only victims who have a residence permit are entitled to formal social and economic integration programmes. However, civil society organisations offer some integration services within the scope of their activities and within the limits of their resources, without differentiating the victims based on their status.

405 CZ, DE, EE, EL, ES, IE, FR, HU, LV, NL, PL, PT, SE, SK. In Estonia only victims who have a residence permit are entitled to formal social and economic integration programmes.

406 CZ, PL.

407 BG, DE and NO (Reflection period); BG, DE, LV (Dublin III); BG, LT, LV (Asylum procedure); BG, CY, FI and NO (Residence permit holders); BG (STV holders / visa-free).

408 AT, BE, BG, CZ, FI, LU, PL, SK and NO (Reflection period); BE, BG, FI, LU, SK (Dublin III); AT, BE, BG, FI, LU, SK (Asylum procedure); AT, BE, BG, CY, ES, FI, LU, SK and NO (Residence permit holders); AT, BE, BG, ES, FI, LU, SK (STV holders / visa-free). In FI, limited services as described above.

the HELIOS programme. Each course lasts six months and includes modules related to learning the Greek language, cultural orientation, preparing for the labour market and other skills. In addition to the courses, the HELIOS programme provides individual employment opportunities and enhances job readiness through the provision of consulting services, access to work-related certification and networking with potential employers. Employers who are willing to hire beneficiaries of international protection or have relevant questions can contact the Employability Team within the HELIOS programme. In Croatia, the integration procedure is conducted by the ministries responsible for health, social welfare issues, education and of the interior, the Croatian Employment Service, civil society organisations and, if necessary, other stakeholders.

### Box 23: Good practice in social and economic integration of child (presumed) victims of trafficking in human beings

Greece's National Integration Strategy sets out the integration of children of immigrants who are asylum applicants or who have been granted international protection as one of its main priorities. For over two decades, the government has supported the establishment and operation of intercultural schools, reception and tutoring classes in primary and secondary schools, as well as so-called Reception Structures for the Education of Refugees. Adults can also attend school ('second chance school') to obtain a degree equivalent to a high school diploma and thus continue their studies at the next level.

### 3.2.9. Protection against secondary and repeat victimisation

The EU acquis acknowledges the importance of protecting (presumed) victims from secondary and repeat victimisation during their interactions with authorities and relevant stakeholders. Relevant protection measures are included in several legislative instruments (Table 13).

**Table 12: Applicable EU acquis on protection against secondary and repeat victimisation**

EU acquis	Relevant provisions
<b>Anti-trafficking Directive and Victims' Rights Directive</b>	<p>The Anti-trafficking Directive (Article 12) and the Victims' Rights Directive (Articles 18 to 23) include similar provisions:</p> <ul style="list-style-type: none"> <li>■ The need for protection measures and specific protection needs must be determined on the basis of an individual risk assessment.</li> <li>■ Protection measures include access to witness protection programmes (in accordance with the grounds defined by national law), a requirement to conduct interviews without unjustified delay after the complaint has been lodged, a limitation on the number of interviews and medical examinations (carried out only where necessary for the investigation/criminal proceeding), and allowing victims to be accompanied by their legal representative and a person of their choice (unless a reasoned decision has been made to the contrary) (Anti-trafficking Directive, Article 12; Victims' Rights Directive, Article 20).</li> <li>■ In the specific case of (presumed) victims of trafficking in human beings, additional measures can be implemented, for example to avoid visual contact between victims and defendants, victims having to give evidence in open court, and unnecessary questioning about the victim's private life. Specific protection needs may also require interviews to be carried out by professionals trained for that purpose, by the same person, or a person of the same sex as the victim (Anti-trafficking Directive, Article 12; Victims' Rights Directive, Article 22).</li> </ul>
<b>Residence Permit Directive</b>	EU Member States should take due account of the protection needs when applying the Directive, in accordance with national law (Article 7(2)).

Two EU Member States reported that they exclusively implement protection measures for (presumed) victims during the reflection period, but not in other situations,<sup>409</sup> while others apply protection measures in the asylum

procedure<sup>410</sup> or to residence permit holders,<sup>411</sup> as needed. Examples of such measures include the possibility of being interviewed by an officer of the same gender or to have breaks during the interviewing process,<sup>412</sup> the

409 LT, PL.

410 CY, DE, EL, NL, SE and NO.

411 PT.

412 CZ, DE, EL, FR, HR, NL, SE and NO.

possibility to be accompanied or for the procedure to be adapted if needed.<sup>413</sup> Few EU Member States.<sup>414</sup> Applicants are also offered the option of psychological assistance and to be accompanied by a psychologist during the process.

Measures seeking to protect (presumed) victims against secondary and repeat victimisation were reported less frequently than other protection and assistance measures, with a proportionally smaller group of EU Member States and Norway indicating that these apply to all groups of (presumed) victims in all situations.<sup>415</sup> Some of the additional procedural safeguards reported by EU Member States include the possibility to request the court to handle a case in camera (without public), as in Belgium, and the need to adapt the interviewing process to the (presumed) victim's needs, as in Luxembourg. The option to choose the gender of the interviewer (and interpreter) during the identification process or the criminal investigation was also frequently mentioned.<sup>416</sup>

The police are most often the stakeholders ensuring the protection of victims against repeat and/or secondary victimisation.<sup>417</sup> In Ireland for example, police can provide protection against repeat victimisation – but not secondary victimisation. International organisations are also frequently cited,<sup>418</sup> particularly in the context of asylum and Dublin III procedures, but also with respect to (presumed) victims who have a short-term visa or are visa-free. Municipalities and civil society also play a role in several EU Member States and in Georgia.<sup>419</sup>

#### Box 24: Challenges in the protection of (presumed) victims against repeat and secondary victimisation

France and Italy identified several practical and legal gaps that resulted in victims re-joining the trafficker or falling into forced labour

#### Box 25: Good practices in protecting against repeat and secondary victimisation

- In Germany, the approach to protection varies across Federal States. Länder typically refer to a specialised structure, which involves a wide array of authorities dealing with foreign affairs, social issues and integration aspects, and in some cases a specialist counselling centre. Some Länder, such as Bremen and Lower Saxony, have support systems in place to prevent victimisation.
- In 2001, France established a mechanism to ensure that when a victim of trafficking in human beings is in danger or in a situation of extreme vulnerability, accommodation and support are provided in a location far from their place of residence.

### 3.2.10. Other assistance and protection measures

EU Member States, Norway and Georgia reported some additional measures to protect and support (presumed) victims of trafficking, such as the provision of compensation, as reported by several EU Member States and Georgia.<sup>420</sup> The right to compensation of victims of trafficking is recognised in the Anti-trafficking Directive, Article 17, which builds on the right to a decision on compensation from the offender laid down in the Victims' Rights Directive, Article 16.

The elements covered by the compensation can vary across EU Member States. In Greece – where compensation is provided by the State in certain cases – it covers medical expenses, specialised psychological support not directly provided by a public structure, loss of income for a reasonable period of time, cost of relocation, etc. Victims cannot, however, be compensated for any ransom paid to the perpetrator in cases involving kidnapping. In Slovenia, the right to compensation only applies to EU citizens. In other EU Member States, the lack of or inadequate financial compensation for victims of trafficking was highlighted as a challenge.<sup>421</sup>

Few EU Member States reported other assistance or support measures.<sup>422</sup> In Finland, (presumed) victims who are third-country nationals may benefit from programmes to support and ensure their safe return to their country of origin. This measure is implemented by the National Assistance System for Victims of Trafficking in Human Beings and is specifically designed to provide support to (presumed) victims of trafficking who do not have a residence in Finland. In addition, when the victim is an unaccompanied minor, the Finnish Immigration Service traces their parent(s) or guardian(s). In Estonia, a support person is provided to victims of trafficking in human beings, when needed. In Spain, in the case of the voluntary return of victims of trafficking in human beings and victims of gender-based violence, as well as their children, minors or with disabilities, the return shall include pre-departure assessment of risks and safety, transport, as well as assistance at departure points, transit and destination. This evaluation will be carried out in collaboration with the entities specialized in the field of trafficking in human beings or gender violence. Likewise, the intervention actions specifically aimed at the reintegration of the victim in the country of return will be reported, as well as the coordination strategy with public institutions or specialized private entities, in the country of return. In Cyprus, support is provided to cover the special needs of the (presumed) victims, arising from factors such as pregnancy, state of health, disability, mental or psychological disorder or serious forms of psychological, physical or sexual violence. This kind of support is provided to (presumed) victims in the reflection period and to residence permit holders.

413 CZ, DE, FR, HR, SE and NO.

414 FR, LT, SI.

415 AT, BE, BG, FI, IE, IT, LU, SI and NO.

416 CZ, FI, HR, IT.

417 CZ, FR, FI, HR, IE, IT, LU, PL and NO, GE (reflection period); FI, FR, HR, IE, IT, LU and NO (Dublin III); FI, FR, HR, IE, IT, LU and NO, GE (asylum procedure); FI, FR, HR, IE, IT, LU and NO, GE (residence permit holders); FI, FR, HR, IE, IT, LU and NO, GE (short-term visa holders/visa-free).

418 HR, SE and NO, GE (reflection period); FR, HR, IT, LU and NO (Dublin III); FR, HR, IT, LU and NO, GE (asylum procedure); HR, SE and NO, GE (residence permit holders); FR, HR, IT, LU and NO, GE (short-term visa holders/visa-free).

419 BG, DE, FI, FR (municipality); AT, BE, BG, CZ, DE, FI, HU, LU, NL, PL and GE (NGOs and civil society organisations).

420 AT, BE, CY, EL, FR, LT, LV, NL, SL and GE.

421 BE, HR, LT.

422 CY, EE, FI.



# 4. COOPERATION

Due to the cross-border and cross-cutting nature of trafficking in human beings, cooperation at local, national and international level is a crucial element in the fight against this crime, not only in terms of investigation and prosecution, but also to detect, identify and protect victims. This

section examines the nature and extent of Member State cooperation in the context of the Dublin III Regulation, as part of EU and international initiatives, and in partnership with third countries.



## 4.1. COOPERATION WITHIN THE SCOPE OF THE DUBLIN III REGULATION

(Presumed) third-country national victims of trafficking in human beings are sometimes detected during the implementation of the procedures envisaged by the Dublin III Regulation. This can occur when they have lodged an application for international protection in a Member State other than the Member State that the Dublin III Regulation designates as responsible for examining the application (for example, or when they entered a Member State irregularly and then moved onward to another country). Usually, where a suspicion arises that a third-country national may be a victim of human trafficking, a formal assessment is carried out by the competent authorities<sup>423</sup> and/or the Member State of first entry is duly informed.<sup>424</sup> While the procedures are generally the same as those applied in cases of (presumed) third-country victims of human trafficking, Bulgaria and Finland specified that (presumed) victims are treated as vulnerable groups within the scope of the Dublin III Regulation. Finland emphasised the importance of the Dublin hearing as a key stage to detect (presumed) victims of trafficking in human beings. The (presumed) victims are referred (following their consent) to the National Assistance System of Victims of Trafficking in Human Beings, even if they are in the Dublin procedure and a transfer to another Member State is likely. However, the Finnish competent authorities noted room for improvement in identifying vulnerable returnees and taking their needs into consideration. For example, in some cases, the police were not informed that a returnee was a potential victim of trafficking.

In most EU Member States, the competent authorities involved in the Dublin procedure use NRMs.<sup>425</sup> Finland and

Germany use a risk analysis and cross-border mechanism to prevent repeat victimisation in the Member State of first entry and to ensure the applicants' safety. They also provide assistance and protection to allow applicants to exercise their rights. However, in Finland the Non-Discrimination Ombudsman which act as the national rapporteur on trafficking in human beings has noted that victims of trafficking in human beings who are in a vulnerable position are sometimes returned to other EU Member States without ensuring access to adequate assistance. In Ireland, if a concern arises about trafficking during the Dublin procedure, the International Protection Office's (IPO) Dublin unit refers potential cases to the IPO's designated office for human trafficking and then on to the Human Trafficking Investigation and Coordination Unit (HTICU) of the police. Czech Republic reported close coordination with specialised NGOs and the involvement of psychologists or medical practitioners. The latter was also highlighted by Estonia and Germany.

In the majority of EU Member States and Norway, (presumed) third-country national victims of trafficking in human beings are entitled to a reflection period, including cases identified in the Dublin procedure.<sup>426</sup> In some cases, the granting of a reflection period is conditional on the absence of a criminal record,<sup>427</sup> evidence that the ties with the perpetrators have been broken,<sup>428</sup> cooperation with the competent authorities as part of the criminal proceeding,<sup>429</sup> or the (presumed) victim agreeing to act as a witness.<sup>430</sup> Although not formally provided for, in practice, Czech Republic guarantees sufficient time for reflection, while the Netherlands does not grant a reflection period

423 AT, BG, CY, DE, EE, FI, FR, IE, IT, LT, LU, NL, PL, SK and NO.

424 EE, IT, LU, MT, SI.

425 BE, CY, DE, FR, IE, IT, LU, LV, NL (no NRM but any suspicion of human trafficking during the asylum procedure (including the Dublin procedure) is sent to the human trafficking unit of the national police (AVIM) to determine further action), SI.

426 AT, BE, BG, EE, ES, EL, FI, IE, LT, LU, LV, MT, PL, SE, SI and NO.

427 LV.

428 EE, MT.

429 LT.

430 EE, SE.

to (presumed) third-country national victims falling under the Dublin III Regulation, as they are already authorised to stay following their application for international protection.

In some EU Member States and Norway, Dublin transfers to the responsible Member State are only halted when victims are formally identified.<sup>431</sup> They are automatically stopped when a residence permit is issued to third-country nationals detected<sup>432</sup> or formally identified<sup>433</sup> as victims of trafficking in human beings. Some EU Member States halt a transfer only if cooperation with the presumed victim is considered instrumental to the initiation of criminal proceedings.<sup>434</sup> In France, the transfer of a (presumed) victim may be halted if an association specialised in the support and care of trafficking victims provides sufficient evidence to the prefectural authorities. This may then result in the authorities taking charge of the (presumed) victim's asylum application and allowing them to remain in France while their application is examined. Formal identification of the victim by the police is not required to suspend the Dublin transfer in that case. In Cyprus, the Dublin transfer is postponed, until the end of the criminal proceedings.

In Luxembourg, if the exploitation took place in the Member State responsible for the application for international protection, the competent authorities from both EU Member States, together with the victim and the police in

the Member State of first entry, evaluate whether the person would be in danger in the event of a Dublin transfer. The Monitoring Committee on the Fight against Trafficking in Human Beings then meets to decide the best approach to the situation. Similarly, if the (presumed) victim was exploited in Luxembourg, their transfer to the Member State responsible for the application for international protection is suspended. Similarly, IOM Italy emphasised the importance of information exchange between competent national authorities to prevent the transfer of (presumed) victims of trafficking in need of international protection to another Member State where they may be at risk of exploitation. In the Netherlands, Dublin transfers are suspended for the duration of the period in which the Public Prosecution Service determines whether the (presumed) victims' report to the police comprises sufficient indications to initiate a criminal procedure that necessitates their presence. If the Public Prosecutor decides that this is indeed the case, victims are entitled to a residence permit under the national legislation on human trafficking, and the Dublin transfer is halted permanently. Finally, five EU Member States and Norway confirmed that they rely on the humanitarian and sovereignty clauses for cases of trafficking in human beings under the Dublin III Regulation, Article 17,<sup>435</sup> although these cases were not always recorded in official statistics.<sup>436</sup> Other EU Member States have yet to use the relevant clauses,<sup>437</sup> with some noting that it is a theoretic possibility.<sup>438</sup>



## 4.2. COOPERATION AT EU AND INTERNATIONAL LEVEL

### 4.2.1. Cooperation AT EU level

Cooperation at EU level plays a strategic role in the fight against trafficking in human beings. It can take different forms, ranging from networks and mechanisms for exchanging information and good practices (including within EU agencies), to joint operations that reinforce collaboration between competent authorities, to specific ad hoc initiatives in response to emerging needs or challenges.

Most EU Member States and Norway actively participate in the European Network of National Rapporteurs or Equivalent Mechanisms, coordinated by the EU Anti-Trafficking Coordinator, which serves to exchange knowledge and best practices.<sup>439</sup> Finland underlined the need for closer and broader intra-EU cooperation (led by the European Commission) to effectively detect and protect victims of trafficking in human beings. Other thematic networks include the Police and Customs Cooperation Centre (PCCC) active in internal border regions,<sup>440</sup> the European Return

and Reintegration Network (ERRIN) ensuring cooperation between migration authorities,<sup>441</sup> the European Crime Prevention Network (EUCPN), a centre of expertise connecting local, national and European levels,<sup>442</sup> the Euregional Information and Expertise Center (EURIEC) strengthening cross-border administrative collaboration in the fight against cross-border crime,<sup>443</sup> and the informal European network to exchange good practices on the care for child trafficking victims between professionals and national authorities promoted by the 'Koutcha project'.<sup>444</sup>

Describing cooperation with EU agencies, EU Member States, Georgia and Moldova, considered Europol<sup>445</sup> and Eurojust<sup>446</sup> to offer useful platforms for discussion and exchange of information. Half referred to Europol's European Multidisciplinary Platform Against Criminal Threats (EMPACT) as a permanent and key EU instrument for structured multidisciplinary cooperation to fight organised and serious international crime.<sup>447</sup> EMPACT aims to disrupt criminal networks engaged in all forms of trafficking in human beings, with a special focus on those who exploit

431 CY, DE, LU and NO.

432 BE, FI, FR and NO.

433 DE, ES, FI, FR, LU, NL.

434 BE, LT, LU, NL.

435 AT, BE, DE, FI, IT and NO.

436 BE, DE.

437 BG, CZ, EE, EL, FR, HR, IE, LT, LU, LV, MT, NL, PL, SI, SK.

438 LT, NL.

439 BE, BG, CY, CZ, DE, EE, EL, ES, HR, FI, FR, IE, IT, LT, LU, LV, NL, SE, SI, SK and NO.

440 BE, DE, FR, LU, NL.

441 BE, DE, FR, SE.

442 CZ, HR, LU.

443 BE, NL.

444 BE, FR.

445 AT, BE, CY, CZ, DE, EL, FI, FR, HR, HU, IE, IT, LT, LU, LV, NL, PT, SI, SK and NO, GE.

446 BE, CZ, EL, ES, FI, SK and, GE, NO.

447 AT, BE, CY, CZ, EL, ES, FI, FR, HR, HU, IE, IT, LT, LV, NL, PT, SE and NO.

minors for forced criminality, those who use or threaten victims and their families with violence, or those who recruit and advertise victims online. The Netherlands currently leads the human trafficking programme of EMPACT THB. France and Greece participated in the Analysis Project (AP) 'Phoenix' within EMPACT, whereby Europol specialists support EU law enforcement authorities and other partner organisations to deal with the rise in cases of trafficking in human beings. Georgia reported signing cooperation agreements with Europol in 2017 and Eurojust in 2019.

At operational level, Joint Investigation Teams (JITs) are viewed as effective tools in the fight against human trafficking.<sup>448</sup> Lithuania, for example, indicated that JITs helped to improve the quality and reduce the length of investigations. Similarly, Austria highlighted how its Joint Operational Office (JOO), based in Vienna since 2016, was successful thanks to the JITs and other forms of exchange of information and networking with other EU Member States. Europol Joint Action Days are also considered instrumental to tackling trafficking in human beings more effectively.<sup>449</sup> According to France, the Europol-coordinated Joint Action Day at EU level, and involving 23 EU Member States, led to visits to 4 897 sites, with 56 000 people concerned, 229 arrests, 73 cases of trafficking in human beings detected, 630 victims identified, and 747 new investigations (including 150 for trafficking in human beings).

Germany intends to organise mutual job-shadowing opportunities with Bulgaria and Romania counterparts to combat trafficking in human beings, especially as regards minors. In Bavaria and Bremen, mutual legal assistance is considered an essential tool to complete information, prepare investigations or generally prevent (presumed) victims from being endangered. France reported an operational action dedicated to trafficking for the purpose of labour exploitation in the agricultural sector, leading to the implementation of coordinated checks at European level. The Netherlands supports other EU Member States by deploying police liaison officers or providing tailored training.

#### 4.2.2. Cooperation At international level

Several EU Member States and Georgia highlighted cooperation with and within the structures of Interpol,<sup>450</sup> while others made reference to good working relations with GRETA,<sup>451</sup> the International Centre for Migration Policy Development (ICMPD)<sup>452</sup> and with the IOM.<sup>453</sup> In 2021, IOM and the Dutch Ministry of Foreign Affairs launched the Cooperation on Migration and Partnerships for Sustainable Solutions initiative (COMPASS), a global cooperation initiative involving 12 countries (Afghanistan, Chad (DTM), Egypt, Ethiopia, Iraq, Lebanon,

Libya, Mali, Morocco, Niger, Nigeria, and Tunisia). COMPASS adopts a whole-of-society approach to combating human trafficking and facilitating voluntary returns in a sustainable manner.<sup>454</sup> Estonia, Finland, Sweden and Norway mentioned their active collaboration within the CBSS, particularly the Transnational Referral Mechanism (TRM), funded by the Swedish Government and the Swedish Institute, and extended to other EU Member States and third countries,<sup>455</sup> as improving assistance to exploited people by strengthening cooperation among competent authorities in partner countries. Finally, the Netherlands noted the importance of judicial and intelligence cooperation with third countries under the umbrella of EMPACT.

Several other international networks were mentioned, namely the Global Alliance Against Traffic in Women (GAATW),<sup>456</sup> the Network of National Anti-Trafficking Coordinators of South-East Europe (NATC SEE),<sup>457</sup> the Office of the Special Representative and Coordinator for Combating Trafficking in Human Beings of the Organisation for Security and Cooperation in Europe (OSCE),<sup>458</sup> the Santa Marta Group,<sup>459</sup> and the Southeast European Law Enforcement Centre (SELEC).<sup>460</sup>

#### 4.2.3. Cooperation With third countries

Cooperation between EU Member States and third countries in the fight against trafficking in human beings can be divided into **two main categories of intervention: cooperation to ensure the safe return and reintegration of victims of trafficking in human beings (with a particular focus on children); and initiatives to strengthen police cooperation** and facilitate investigations into labour exploitation.

Most EU Member States and Norway<sup>461</sup> cooperate with third countries on return and reintegration, usually as part of Assisted Voluntary Return and Reintegration (AVRR) operations implemented by IOM among other organisation.<sup>462</sup> For example, the IOM-led, Asylum, Migration and Integration Fund (AMIF)-funded Transnational Action - safe and sustainable return and reintegration for victims of trafficking (TACT) project involves Greece, France, Italy, Poland and Spain as destination countries, and Albania, Morocco and Ukraine as priority countries for return. It aims to establish a cooperation mechanism for safe return and support for reintegration of victims of trafficking. Austria indicated its plans to cooperate with an increasing number of third countries through the support of IOM-coordinated AVRR operations. The focus of **cooperation efforts between France, Germany, Greece and Luxembourg** with third countries is on **(unaccompanied) minors**. Through End Child Prostitution, Child Pornography And Trafficking of children for sexual purposes (ECPAT), Luxembourg has financed projects in Bangladesh, Burkina Faso, Cambodia, Cape Verde, India, Morocco, Nepal, Niger,

448 BE, CZ, ES, FI, HR, LT, SK.

449 AT, BE, DE, ES, FR, HR.

450 CY, CZ, EL, HR, IE, LU, LV, SK and GE.

451 CY, EL, FR, LV, SK and NO, GE.

452 NL and GE.

453 CZ, DE, LT, LU, NL, IE, SK and NO, GE.

454 IOM, 'COMPASS', <https://www.iom.int/compass>, last accessed on 25 February 2022.

455 BG, DK, DE, EE, FI, LV, LT, RO, PL, SE and IS, NO, RU (suspended), UA.

456 FI.

457 SI.

458 EL, LV and GE.

459 IE.

460 EL.

461 AT, BE, CY, CZ, EL, FI, FR, HR, IE, IT, LT, LU, NL, SI, SK and NO.

462 AT, BE, CY, CZ, EL, ES, FI, HR, IE, IT, LT, LU, NL, SK and NO.

Nigeria, Mali and Senegal. Expertise France is actively involved in the implementation of the ALTP project, which supports authorities and civil society organisations in the Gulf of Guinea (Benin, Côte d'Ivoire, Ghana, Guinea, Nigeria and Togo).<sup>463</sup> Greece referred to its extensive cooperation in the framework of bilateral agreements with Albania, which address protection and assistance of children victims of trafficking, while Sweden reported its agreements with Georgia, Cambodia, Moldova, Serbia, Thailand and Vietnam. Finally, besides the above-mentioned COMPASS initiative, the Netherlands mentioned the added value of regional migration dialogues (such as the Khartoum Process, a platform for political cooperation amongst countries along the migration route between the Horn of Africa and Europe and the Rabat Processes, a Euro-African dialogue on migration and development) to the fight against human trafficking at international level.

EU Member States, Norway and Georgia, implement various **initiatives to enhance cooperation among law enforcement authorities** and facilitate investigations. A specific Agreement on Employment and Cooperation in the Field of Labour Migration between Lithuania and Ukraine entered into force in 2020 to strengthen cooperation and provide mutual assistance to protect the rights and interests of employees from both countries, combat

undeclared work and prevent labour exploitation. In collaboration with Liechtenstein, Australia, UN bodies, and entities in the financial sector, the Netherlands participates in the Finance Against Slavery and Trafficking (FAST) initiative, which explores methods to detect and disrupt financial flows associated with human trafficking, and to engage the financial sector in detecting such crime.<sup>464</sup> A number of EU Member States and Georgia actively cooperate with third countries through the **deployment of liaison officers**<sup>465</sup> and/or diplomatic missions,<sup>466</sup> as well as capacity-building activities.<sup>467</sup> In March 2019, Spain appointed a Nigerian liaison judge/prosecutor to promote and facilitate mutual legal assistance and conduct parallel investigations. The appointment has had important results, such as the handing over of a Nigerian citizen to the Spanish authorities, who was the subject of an international arrest warrant for the crime of trafficking in human beings for sexual exploitation.

Finally, several EU Member States aim to strengthen their cooperation by working closer with some of the main countries of origin of (presumed) victims, such as Belarus,<sup>468</sup> Bosnia-Herzegovina,<sup>469</sup> China,<sup>470</sup> Moldova,<sup>471</sup> Montenegro,<sup>472</sup> Nigeria,<sup>473</sup> North Macedonia,<sup>474</sup> Russia,<sup>475</sup> Serbia,<sup>476</sup> Ukraine<sup>477</sup> and Vietnam.<sup>478</sup>

<sup>463</sup> Expertise France, <https://www.expertisefrance.fr/en/fiche-projet?id=726413>, last accessed on 21 Jan 2022.

<sup>464</sup> FAST, <https://www.fastinitiative.org/>, last accessed on 21 January 2022

<sup>465</sup> BE, CZ, EL, ES, FR, HR, LT, LV, NL and GE.

<sup>466</sup> BE, EL, HR, LU, LV and GE.

<sup>467</sup> NL.

<sup>468</sup> LT, LV.

<sup>469</sup> HR, SI.

<sup>470</sup> ES, HR.

<sup>471</sup> LV, SE.

<sup>472</sup> SI.

<sup>473</sup> AT, ES, FR.

<sup>474</sup> SI.

<sup>475</sup> LT, LV.

<sup>476</sup> HR, SE, SI.

<sup>477</sup> LT, LV, SK.

<sup>478</sup> SK.

# 5. CONSEQUENCES OF THE COVID-19 PANDEMIC

The outbreak of the COVID-19 pandemic has added significant challenges to the work of those involved in combating trafficking in human beings and supporting victims. The public health measures introduced by governments to slow down the spread of the virus, such as isolation and quarantine, lockdowns, social distancing and travel bans, also impacted on the extent to which national authorities and other relevant organisations could detect, identify, support and protect (presumed) victims.

The disruption in the economy resulting from the pandemic has dramatically increased the vulnerability of some people who were already at risk of becoming victims of trafficking. Several EU Member States have already observed a rise in illegal and criminal activity, along with forced prostitution,<sup>479</sup> or anticipate such a rise, given the restricted possibilities to detect (and identify) victims during the pandemic.



## 5.1. CONSEQUENCES OF THE COVID-19 PANDEMIC FOR DETECTION, IDENTIFICATION, AND PROTECTION OF (PRESUMED) VICTIMS

The COVID-19 pandemic posed several important challenges to the detection, identification and protection of (presumed) victims, ranging from the closure of public services, limited outreach and awareness-raising activities, and reduced capacity of structures to support and protect (presumed) victims, to the increased isolation of victims, and overburdened law enforcement and judiciaries.

Several EU Member States, Norway and Georgia were forced to close or adapt (part of) their public services as a result of the public health measures,<sup>480</sup> and/or to move these online where possible. In Estonia and Luxembourg, assistance services remained available by phone and email, and only where necessary in-person. By contrast, in Finland, the National Assistance System for Victims of Trafficking in Human Beings remained open and fully accessible. For residence permit procedures, France expanded the option to apply online, while Austria continued to require proof of German language skills, even though no courses could be offered due to the health measures in place. In Italy, there was a concern about decreased ability to detect victims of trafficking among arriving asylum seekers, as police kept new arrivals for only a couple of hours at the landing sites before sending them into quarantine and then on to various centres across the national territory. Greece reported that it was more difficult for case works to establish a climate of trust with (presumed) victims in administrative procedures, increasing victims'

reluctance to disclose evidence that would help their (formal) identification.

As a result of the measures taken to combat COVID-19, detection and identification processes were hindered and the number of (presumed) victims officially detected, identified and supported subsequently decreased.<sup>481</sup> The COVID-19 pandemic had a negative impact on awareness-raising and outreach activities run by public authorities and civil society organisations.<sup>482</sup> Field interventions and other face-to-face contact were cancelled or drastically reduced. In France, initial contact with victims during field missions was hampered. An experimental project launched to engage with victims online was unsuccessful, as most victims were not allowed to use social networks.

Protection and support mechanisms for (presumed) victims were affected by the pandemic. In France, the number of accommodation places was reduced, due to the difficulties - or impossibility in certain places - to comply with the protocols on distancing measures. In Luxembourg, the process took longer, as victims were housed in a hotel pending a negative PCR test. In the Netherlands, the pandemic shed light on the fragmentation and varying approach of institutions involved in the protection of victims. As protection processes depend heavily on residence status, this results in the unequal treatment of (presumed) victims, along with difficulties in establishing the institution accountable for their protection. In terms of assistance and other services to victims of trafficking,

479 EL, SE.

480 BE, CY, DE, EE, EL, ES, FI, FR, IE, IT, LT, LU, LV, NL, PL, PT and NO, GE.

481 BE, CY, EE, ES, FR, IE, IT, LT, LU, PL, PT, SE.

482 BE, DE, FR, LT, LU and NO, GE.

Slovak Republic reported that the COVID-19 pandemic most often resulted in more complicated and time-intensive assisted voluntary returns. In the Netherlands, malpractices concerning labour migrants were magnified during the pandemic. Their illegal stay means that these undocumented migrants often work in the informal labour market, where more exploitation occurs. A Taskforce was launched in May 2020 to ensure better protection for labour migrants, mainly focusing on low-skilled and medium-skilled EU labour migrants.

The pandemic posed challenges for law enforcement and judicial authorities, which had to shift significant

resources away from their usual tasks.<sup>483</sup> In Poland, border guards had to take on additional activities linked to the COVID-19 crisis, thus had fewer resources to detect trafficking in human beings. In Austria, the opportunities for the police to have personal contact and trust-building measures with sex workers (e.g. health checks) were substantially curtailed. Cases of individuals found illegally engaging in their trade were considered in breach of COVID-19 rules and thus reported as illegal prostitution, creating a more repressive role for the police, that was considered counter-productive for both victims and the authorities.



## 5.2. NEW PATTERNS AND/OR TRENDS IDENTIFIED IN TRAFFICKING IN HUMAN BEINGS AS A RESULT OF THE COVID-19 PANDEMIC

The pandemic changed how victims are recruited, trafficked and exploited. Most countries commented on the increased use of the internet to recruit, exploit and control victims, and feared that this growing trend would persist, with minors as the main target, followed by women and men for the purposes of labour exploitation.<sup>484</sup> Luxembourg noted that authorities were examining possible legislative changes to better counter the increased use of online tactics.

In addition to observing the increase in recruitment for sexual exploitation via the internet and social media, some EU Member States observed an important increase in, as well as a shift from, traffickers using private places such as hotel rooms or apartments, instead of brothels

(closed due to the pandemic).<sup>485</sup> This makes it very difficult for law enforcement to conduct investigations and inspections.<sup>486</sup> Luxembourg indicated that this trend continued after the end of its national lockdown.<sup>487</sup>

Others highlighted the exacerbated social inequality resulting from the disruption of the economy and the weak economic recovery,<sup>488</sup> with women at particular risk, including some being forced into labour exploitation.<sup>489</sup> Austria noted that reduced family incomes had contributed to labour exploitation, even putting children at risk. The authorities also observed an increase in third-country nationals working in precarious conditions. Poland reported a slight gravitation from labour exploitation towards sexual exploitation.



## 5.3. ADAPTATION OF PUBLIC POLICIES AND PROCEDURES TO THE CHALLENGES OF THE COVID-19 PANDEMIC

Just over half of the EU Member States, Norway and Georgia adapted their policies and procedures to address the challenges posed by the COVID-19 health crisis.<sup>490</sup> These typically consisted of practical measures to manage detection, identification and support within the constraints of the health measures in place, as well as to facilitate residence and work permit procedures.

The main practical changes introduced were a move to online services (e.g. video interviews),<sup>491</sup> the use of hotlines,<sup>492</sup> and online learning in Estonia, where the government launched a nationwide e-learning initiative in schools to raise awareness of the risks of online sex trafficking and child exploitation. In some EU Member States, detection and investigation capacities were boosted by

online training<sup>493</sup> and the provision of additional investigative tools for law enforcement and prosecutors.<sup>494</sup>

EU Member States provided additional funding to public authorities and civil society organisations<sup>495</sup> to better support (presumed) victims of trafficking. Ireland granted additional funding to specialised NGOs, while Italy earmarked over EUR 20 million to projects focusing on the basic needs of victims, including financial assistance.

To ensure that third-country nationals, including (presumed) victims of trafficking, could remain in the country when their residence permits expired or when the application process for renewal was temporarily paused, some EU Member States decided to automatically renew

483 BE, FR, HU, NL, PL, PT and NO.

484 AT, CY, EL, LU, LV, DE, ES, FR, HR, LT, LU, LV, NL, SI, SK and GE.

485 BE, DE, ES, FR, HU, LU.

486 BE, ES, LU.

487 From March to June 2020.

488 BE, ES, FR, LT, LU, LV, NL.

489 AT.

490 BE, CY, DE, EE, EL, ES, FI, FR, IE, LV, NL, PL, PT and NO, GE.

491 BE, FI, HU, LU and NO.

492 CY, GE.

493 IE.

494 FR, IE.

495 IE, IT, LT.

existing residence permits. Greece adopted legislation to digitalise the residence permit application process.

A few EU Member States revisited their overall strategies and policies related to victims of trafficking in human beings.<sup>496</sup> In Spain, for example, authorities developed a targeted Contingency Plan against Gender Violence in the context of the COVID-19 crisis, which included victims of trafficking. In Lithuania, the National Commission for the Coordination of Counter-Trafficking Actions discussed the impact of COVID-19 on the situation of trafficking in human beings during its biannual meeting. They concluded that law enforcement should overall pay more attention to the prevention of recruitment online.

Conversely, some EU Member States reported that the COVID-19 pandemic had little impact on their activities in trafficking in human beings. Finland reported that the institutions working in this area were able to manage the consequences of COVID-19 using the additional budget allocated before the outbreak of the pandemic. While detection of (potential) victims of trafficking in human beings was significantly hampered in Luxembourg, no policies or procedures needed to be adapted with regard to the detection, identification and protection of (presumed) victims. Moreover, in particular the assistance services and the police remained operational throughout, also in Croatia and in Latvia, where the civil society worked with victims online or over the phone. Malta also noted that social welfare agencies, the police and the court continued to function during the pandemic.

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496 CY, EL, ES, LT, LV, PT.

## 6. CONCLUSIONS

The fight against trafficking in human beings remains a challenge and a policy priority for EU Member States, Norway and Georgia. Whilst data on the phenomenon is not being collected in each country, based on available figures, between 2015 and 2020 more than 10.500 third-country victims of trafficking in human beings were registered, with minors accounting for 8.5%, and sexual and labour exploitation representing about 75% of the cases.<sup>497</sup> Over the same period, most countries have adopted institutional, policy and legislative initiatives to strengthen coordination among relevant stakeholders and better equip them to protect (presumed) victims, as well as enhance investigations and increase sanctions against perpetrators. Awareness-raising activities, media coverage, parliamentary debates and targeted studies and reports have also contributed to shedding more light on the phenomenon.

Given its clandestine nature, with victims also fearing retaliation against those who are close to them, trafficking in human beings is believed to be significantly underreported, and the detection and identification of (presumed) victims remain critical and problematic. While conceptually and legally different, in practice not all countries make a clear distinction between detecting and identifying victims, with either the same authorities being responsible for both phases, or more organisations being competent to detect than to identify (presumed) victims of trafficking. Instead, most countries that formally separate the two phases usually entrust several authorities with detection responsibilities, while often having a single authority in place that is competent to identify.

All countries recognise the crucial role played by National Referral (or alternative) Mechanisms which bring together relevant organisations which cooperate closely to guarantee early identification, assistance and support for (presumed) victims. However, EU Member States, Norway and Georgia still face challenges in detecting and identifying potential victims of trafficking, despite having specific measures in place. The lack of resources for training and capacity-building was viewed as a prominent obstacle, as concerned stakeholders did not possess the necessary skills and abilities to determine whether a person could be a victim.

Early identification is crucial to ensure the prompt organisation of assistance and support to victims of trafficking

in human beings, and to adequately protect them. It also enables competent authorities to better investigate, prosecute, and convict traffickers. To enhance early identification, the most deployed measures are self-reporting, awareness-raising campaigns, using indicators and checklists, intelligence gathering, and applying proactive screening mechanisms in asylum and migration procedures. Specific procedures to identify (presumed) victims are in place in most EU Member States and implemented by law enforcement bodies or a combination of different actors. While having multiple authorities responsible for the identification of (presumed) victims is sometimes challenging in terms of coordination, it can also be advantageous, as it reduces the chances that a victim will go unnoticed.

In general, the formal identification of a victim constitutes the trigger for different forms of support to be offered, although in some cases these are already provided at detection stage too. A reflection period determined by national law allows (in most cases) third-country national (presumed) victims to escape the influence of the perpetrator, recover and take an informed decision on whether to cooperate with the competent authorities, and prevents them from being expelled or transferred to another Member State. Upon expiration of the reflection period, victims of trafficking can apply for authorisation to reside in the country where they were identified on the grounds of their victimisation and/or to support investigation and prosecution of their perpetrators. Moreover, most countries also grant residence rights that are not conditional on their participation in criminal proceedings or allow third-country nationals to reside based on humanitarian grounds. If applicable, third-country nationals can be granted international protection (refugee status and subsidiary protection), while for asylum applicants, their detection or identification as a (presumed) victim may also have an impact on their recognition or on a Dublin III transfer.

The grounds for and modalities of assistance and protection of (presumed) victims are provided for in different EU legal instruments. First and foremost, in the Victims' Right Directive and the Anti-trafficking Directive, but relevant provisions are also found in the EU migration asylum acquis, depending on what status is granted to the victim of trafficking. This makes it a quite complex area, especially when considering that EU Member States (and those for

<sup>497</sup> Other forms of trafficking in human beings can include also forced services, including begging, slavery or practices similar to slavery, servitude, or the exploitation of criminal activities, or the removal of organs. Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA (Anti-trafficking Directive), <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A32011L0036>, Article 3(2), last accessed on 22 March 2022.



which the *acquis* is not (fully) applicable, such as Ireland, Norway and Georgia) also have national legal frameworks in place to provide support and protection. Support measures cover the right to information, translation and interpretation, counselling, legal representation and legal aid, access to appropriate accommodation and material support, as well as to medical treatment and psychological assistance, and the right to compensation. Whilst most countries make these available to (presumed) victims of trafficking, their coverage and duration varies depending on the permit granted to them, or the residence procedure in which they find themselves. In terms of protection measures, EU Member States ensure access to witness protection programmes and implemented measures to avoid repeat and secondary victimisation during the investigation and criminal proceedings, when deemed necessary based on an individual assessment.

Due to the cross-border and cross-cutting nature of trafficking in human beings, cooperation at national and international level is a crucial element in the fight against this crime, not only in terms of investigation and prosecution of perpetrators, but also to detect, identify and protect victims. Cooperation takes different forms, ranging from networks and mechanisms for exchanging information and good practices (including within EU agencies), to joint operations that reinforce collaboration between competent authorities, to specific ad-hoc initiatives in response to emerging needs or challenges to specific agreements with third countries whose nationals are victims in EU Member States. Cooperation with third countries aims mostly at ensuring the safe return and reintegration of victims of trafficking in human beings (with a particular focus on children) and strengthening police cooperation and facilitating investigations into labour exploitation.

The outbreak of the COVID-19 pandemic has added significant challenges to the detection, identification and protection of (presumed) victims of trafficking in human beings ranging from the closure of public services, limited outreach and awareness-raising activities, and reduced capacity of structures to support and protect (presumed) victims, to the increased isolation of victims, and overburdened law enforcement and judiciaries. The disruption in the economy resulting from the pandemic has dramatically increased the vulnerability of some people who were already at risk. The pandemic changed how victims are recruited, trafficked and exploited. Most countries share concern about the growing use of the internet to recruit, exploit and control victims, with minors as the main target, would persist after the COVID-19 pandemic, followed by women and men for the purposes of labour exploitation.

# 7. ANNEXES

**Table A1.1 Victims of trafficking in human beings: characteristics, data and statistics**

Total victims (by year)																		
Country	2015			2016			2017			2018			2019			2020		
	T	F	M	T	F	M	T	F	M	T	F	M	T	F	M	T	F	M
AT	26	22	4	n/i	n/i	n/i	62	61	1	70	68	2	57	48	9	45	32	13
BE	83 (89)	28 (41)	55 (48)	n/i	n/i	n/i	140	79	61	134	51	83	144	75	69	68	34	34
BG							1	1		0	0	0	0	0	0			
CY	46 (219)	23 (124)	23 (95)	44	40	4	46 (132)	35 (107)	11 (25)	31	26	5	18 (141)	17 (99)	1 (42)	17 (150)	3 (69)	14 (81)
CZ	n/i (2)	n/i (2)	n/i (0)	n/i (2)	n/i (2)	n/i (0)	n/i (14)	n/i (7)	n/i (7)	n/i (10)	n/i (10)	n/i (0)	n/l [6]	n/l [2]	n/l [4]	n/l (7)	n/i (5)	n/i (2)
DE	416	398	18	654*	534	119	671*	511	160	675*	549	113	494	≥ 410	≥ 41	776*	≥ 390	≥ 35
* gender in remaining cases unknown.																		
EE	2	2	0	2	1	1	2	2	n/a	1	0	1	0 {55}	0{53}	0{2}	5 {29}	4 {17}	1 {12}
EL	57	38	19				38*			31	27	4	105	87	15	93	75	18
ES	267	167	100	193	166	27	1117	n/i	n/i	238	151	87	364	278	86	207	188	19
FI	14 (41)	13 (27)	1 (14)	8 (130)	7 (86)	1 (44)	22 (127)	n/i (69)	n/i (57)	14 (163)	n/i (87)	n/i (76)	23 (229)	n/i (146)	n/i (83)	12 (247)	n/i (135)	n/i (112)
FR <sup>498</sup>	n/i	n/i	n/i	491						n/i	n/i	n/i	613	588	6	397	219	173
HR	2	2	0	8	3	5	9	4	5	61	16	45	3	3	0	c/d	c/d	c/d
HU							0	0	0	0	0	0	1	1	0	4	1	3
IE	25			28			51			44			34			29		
IT	228	n/i	n/i				n/i	n/i	n/i	578	222	356	4	n/i	n/i	366	81	285
LT	1	1		1	1		20		20	0			4	2		2	2	
LU	2	2	0	5 (1)	4 (1)	1 (0)	10 (1)	4 (0)	6 (1)	2 (8)	2 (6)	0 (2)	1 (12)	1(7)	0(5)	1 (4)	0 (1)	1(3)
LV	0	0	0	0	0	0	2	1	0	0	0	0	24	1	23	31	0	31
MT				31	12	19	4	4	0	35	22	13	0	0	0	1	1	0
NL				123	88	35	160	104	56	307	161	146	610	243	367	424	203	221
PL	38	n/i	n/i	34	n/i	n/i	202	n/i	n/i	65	n/i	n/i	94	n/i	n/i	156	n/i	n/i
PT							66	n/i	n/i	59	n/i	n/i	86	n/i	n/i	59	n/i	n/i
SE	180	n/i	n/i	n/i	n/i	n/i	444	256	188	(384)	(216)	(168)	481	288	193	363	220	143
SI	33	33	0	22	20	2	30	30	0	47	19	28	6	5	1	26	26	0
SK	0 (1)	0 (1)	0 (0)	0 (1)	0 (0)	0 (1)	0 (1)	0 (0)	0 (1)	1 (0)	1 (0)	0 (0)	c/d (0)	c/d (0)	c/d (0)	c/d	c/d	c/d
NO				262	206	55	n/i*	n/i	n/i	n/i*	n/i	n/i	n/i*	n/i	n/i	n/i	n/i	n/i
GE	5	5	0	3	3	0	5	5	0	2	2	0	0	0	0	3	2	1

T: Total number F: female M: male

( ): Data in brackets indicate the (estimated) number of presumed victims

<sup>498</sup> Data for male and female in 2019 /2018/ 2017 / 2016 only apply to victims of sexual exploitation while the total numbers include victims of sexual exploitation and labour exploitation (adults and minors).

**Table A1.2 Age of victims  
(total victims 2015-2020)**

Country	Over 18 years of age	Under 18 years of age
AT	220	23
BE	433 (76)	145 (13)
BG	1	
CY	174 (471)	5 (39)
CZ	40	6
DE	2368	1063
EE	7 (84)	5
EL	281	52
ES	1224	45
FI <sup>499</sup>	19 (362)	1 (24)
FR <sup>500</sup>	1784	231
HR	77	6
HU	3	1
IE		
IT	854	90
LT		
LU	18 (26)	3
LV	56	1
MT	70	1
NL	1578	46
PL	n/a	n/a
PT		
SE	1146 (340)	322 (44)
SI	99	
SK	1 (3)	
NO	n/i	n/i
GE	18	

**Table A1.3 Forms of exploitation  
(total victims 2015-2020)**

Country	Sexual exploitation	Labour exploitation	Other forms
AT	n/i	n/i	n/i
BE	164 (27)	265 (47)	57
BG		1	
CY	71 (145)	57 (131)	51 (15)
CZ	(5)	(13)	
DE	2944	463	65
EE	5 (71)	5 (13)	2
EL	248	55	40
ES	1373	948	65
FI	n/i (311)	n/i (405)	n/i (219)
FR <sup>501</sup>	1705	572	
HR	8	17	66
HU	1	3	
IE			
IT	181	763	
LT		23	
LU	7 (7)	13 (18)	1 (1)
LV	2	54	1
MT	25	46	1
NL	690		934
PL	n/a	n/a	n/a
PT	64	106	34
SE	598 (226)	530 (177)	396 (268)
SI	53		2
SK	1	(3)	
NO	n/i	n/i	
GE	15	3	

499 Does not include all the victims detected and identified between 2015–2020, age breakdown not available for all years.

500 Data for France apply to victims of sexual exploitation from 2015–2020 and only to victims of labour exploitation in 2020.

501 Data on sexual exploitation for 2015–2020. Data on labour exploitation for 2016–2020. These data include minors.



## Keeping in touch with the EMN

EMN website [www.ec.europa.eu/emn](http://www.ec.europa.eu/emn)

EMN LinkedIn page <https://www.linkedin.com/company/european-migration-network/>

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## EMN National Contact Points

Austria [www.emn.at/en/](http://www.emn.at/en/)

Belgium [www.emnbelgium.be](http://www.emnbelgium.be)

Bulgaria [www.emn-bg.com](http://www.emn-bg.com)

Croatia <https://emn.gov.hr/>

Cyprus [www.moi.gov.cy/moi/crmd/emnncpc.nsf/home/home?opendocument](http://www.moi.gov.cy/moi/crmd/emnncpc.nsf/home/home?opendocument)

Czechia [www.emncz.eu](http://www.emncz.eu)

Denmark [www.justitsministeriet.dk/](http://www.justitsministeriet.dk/)

Estonia [www.emn.ee/](http://www.emn.ee/)

Finland [www.emn.fi/in\\_english](http://www.emn.fi/in_english)

France [www.immigration.interieur.gouv.fr/Europe-et-International/Le-reseau-europeen-des-migrations-REM3/Le-reseau-europeen-des-migrations-REM2](http://www.immigration.interieur.gouv.fr/Europe-et-International/Le-reseau-europeen-des-migrations-REM3/Le-reseau-europeen-des-migrations-REM2)

Germany <https://www.bamf.de/EN/Themen/EMN/emn-node.html>

Greece <http://emn.immigration.gov.gr/en/>

Hungary [www.emnhungary.hu/en](http://www.emnhungary.hu/en)

Ireland [www.emn.ie/](http://www.emn.ie/)

Italy [www.emnitalyncp.it/](http://www.emnitalyncp.it/)

Latvia [www.emn.lv/en/home/](http://www.emn.lv/en/home/)

Lithuania [www.emn.lt/en/](http://www.emn.lt/en/)

Luxembourg <https://emnluxembourg.uni.lu/>

Malta <https://emn.gov.mt/>

The Netherlands <https://www.emnnetherlands.nl/>

Poland <https://www.gov.pl/web/europejska-siec-migracyjna>

Portugal <https://rem.sef.pt/>

Romania <https://www.mai.gov.ro/>

Spain <https://extranjeros.inclusion.gob.es/emn-Spain/>

Slovak Republic <https://emn.sk/en/>

Slovenia <https://emm.si/en/>

Sweden <http://www.emnsweden.se/>

Norway <https://www.udi.no/en/statistics-and-analysis/european-migration-network---norway>

Georgia [https://migration.commission.ge/index.php?article\\_id=1&clang=1](https://migration.commission.ge/index.php?article_id=1&clang=1)

Republic of Moldova <http://bma.gov.md/en>