



Implementation of Directive 2011/36/EU: Migration and gender issues

European
implementation
assessment

STUDY

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Implementation of Directive 2011/36/EU: Migration and gender issues

European implementation assessment

Directive 2011/36/EU (Anti-Trafficking Directive) is the benchmark legislation on the fight against human trafficking at European level.

The aim of this European implementation assessment is to gather evidence on the progress and challenges that occur in the implementation of the directive in the Member States, with a double focus: the migratory context and gender issues.

Almost 10 years after its adoption, the Anti-Trafficking Directive remains a valuable tool in combating trafficking in human beings in the European Union (EU). Nevertheless, the evaluation points out the need to continue efforts to ensure the application of its provisions in all the directive's main aspects. The persisting grey areas and obstacles are significant enough to put the full achievement of the directive's objectives at risk.

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Executive summary

Trafficking in human beings (THB) is a criminal activity that affects people's fundamental rights and dignity.

In the past 20 years, efforts at international and European level have been stepped up and mechanisms and tools for victims' protection and punishment of offenders have been put in place. For the time being, the results are rather mixed and the cooperation of all actors involved is needed more than ever to combat this national, cross-border and international phenomenon.

The European Parliament (EP) is a long-standing supporter of the fight against human trafficking. Among its most recent initiatives in this field is the preparation of an implementation report on Directive 2011/36/EU (Anti-Trafficking Directive). This is its second report, aimed at evaluating the functioning of the directive, which is the main EU legislative tool in combating THB.

The Anti-Trafficking Directive envisages a comprehensive, gender-centred and child-sensitive approach to human trafficking, broadening (and strengthening) the definition agreed at international level (in the UN Anti-Trafficking Protocol or Palermo Protocol, from 2000). It introduces some novelties (such as granting rights that can be directly defensible in domestic courts), institutes a 'position of vulnerability' and the principle of non-prosecution and non-penalisation of THB victims, enlarges the forms of exploitation (begging, criminal activities, removal of organs), and consolidates existing measures (such as quashing the notion of victim consent to exploitation). According to the directive, trafficking in human beings means: 'the recruitment, transportation, transfer, harbouring or reception of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception of the abuse of power or of the 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' (Article 2(2)). At the same time, the directive lays down minimum common rules for THB offences and in particular the prosecution of offenders, sanctions for crimes, and prevention of human trafficking, while creating new instruments for a consistent and coordinated approach (designation of an EU Anti-Trafficking Coordinator) and allowing for consolidated enforcement mechanisms.

This assessment collected evidence to support the preparation of the EP implementation report by mapping the relevant literature and existing documents relating to the topic (desk-research analysis), as well as by gathering data directly on the ground, through interviews with relevant stakeholders. The European implementation assessment (EIA) comprises:

- an opening analysis, which includes some general remarks and initiatives relating to THB, as well as the key findings and the conclusion of the assessment, mainly based on the data put together through the research carried out in the preparation of the implementation report;
- a research paper on 'Trafficking in human beings: gender issues and migration', which is the most recent and comprehensive analysis to date on the actual functioning of Directive 2011/36/EU.

The aim of this research was to identify the progress and achievements, as well as possible weaknesses and challenges, from an implementation perspective. The main purpose of the assessment, which covers five evaluation tasks: the general situation of THB in the EU; prevention of trafficking; efficiency of the criminal systems; protection of victims of trafficking; and cooperation between Member States and EU support; is to provide evidence to the Members of the European Parliament (MEPs) on the Anti-Trafficking Directive. It also aims at contributing to a better

understanding of the phenomenon and to a clearer and more inclusive picture of what has been done, what is working and what action is still needed in the fight against THB.

The evaluation concluded that, for all the elements covered by the analysis, progress has been made and the directive remains a valuable instrument to protect victims' rights and to fight criminal networks and prosecute offenders, while the measures and mechanisms put in place appear to contribute to better cooperation between the actors involved. Nevertheless, the application of the directive is still far from being accomplished and the grey areas and shortcomings identified are still significant enough to put the full achievement of the objectives set by the directive at risk.

Acknowledgements

EPRS would like to express its gratitude to all actors involved in the data collection exercise of this research project.

List of abbreviations

CoE	Council of Europe
EIA	European implementation assessment
EPRS	European Parliamentary Research Services
EU	European Union
FEMM	European Parliament's Committee on Women's Rights and Gender Equality
LIBE	European Parliament's Committee on Civil Liberties, Justice and Home Affairs
NREM	National rapporteurs and/or equivalent mechanisms on THB
THB	Trafficking in human beings
TRM	Transnational referral mechanisms

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PART I: IN-HOUSE OPENING ANALYSIS

1. Trafficking in human beings: Overview

Key findings

Trafficking in human beings is a persistent and under-represented reality in the European Union (EU) and worldwide. With the adoption of the Anti-Trafficking Directive (Directive 2011/36/EU), the EU wanted to put a powerful tool in place to fight against human trafficking, with a victim-centred, gender-specific and child-sensitive approach.

The number of THB victims is increasing, the number of prosecutions and convictions remains low and the real extent of the phenomenon cannot be correctly framed. Poor information, lack of consistency in existing data, practical obstacles in the application of the measures complying with the requirements of the directive ... the picture is far from ideal. Nevertheless, progress has been made over the years and efforts have been made to improve the functioning of the measures combating human trafficking, with beneficial and encouraging results for THB victims.

For the time being, the application of the directive is not fully accomplished, and the shortcomings and obstacles identified are strong enough to negatively impact the achievement of its objectives.

'So I was sold at last! A human being sold in the free city of New York! The bill of sale is on record, and future generations will learn from it that women were articles of traffic in New York, late in the nineteenth century (...)',¹ wrote Harriet Jacobs in her 1861 autobiography. In the 21st century, human trafficking remains a worldwide reality. This deliberate forcing of the most vulnerable people in our societies into slavery still occurs, destroying freedom, dignity, and lives.

In 2005,² 'considering that trafficking in human beings constitutes a violation of human rights and an offence to the dignity and the integrity of the human being', the Council of Europe (CoE) adopted the Convention on Action against Trafficking in Human Beings.³ It seeks to (Article 1): 1. **prevent** and combat trafficking in human beings, while guaranteeing gender equality; 2. **protect** the human rights of the victims of trafficking, design a comprehensive framework for the protection and assistance of victims and witnesses, while guaranteeing gender equality, as well as to ensure effective investigation and prosecution; 3. **promote** international cooperation on action against trafficking in human beings.

In addition to the report's consolidated approach (compared to instruments existing at that moment), with regard to the scope (all forms of trafficking and all persons who are victims of trafficking are included), the focus on the protection of victims, and the monitoring system put in place, a significant added value remains the fact that trafficking is defined as a violation of human rights. The human individual is placed at the centre of all protective actions and procedures in relation to all forms of human trafficking. The CoE Convention recognises trafficking as a violation of dignity and an attack on the quality of human life – a threat to fundamental human rights.

¹ Harriet Ann Jacobs, *Incidents in the Life of a Slave Girl*, London, 2005 (original publication 1861).

² Entry into force: 1 February 2008.

³ Council of Europe, [Convention on Action against Trafficking in Human Beings](#), Warsaw, 2005.

Figure 1 – Human rights violated by trafficking

<p>Human rights most relevant to trafficking</p> <ul style="list-style-type: none">• The prohibition of discrimination on the basis of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status• The right to life• The right to liberty and security• The right not to be submitted to slavery, servitude, forced labour or bonded labour• The right not to be subjected to torture and/or cruel, inhuman, degrading treatment or punishment• The right to be free from gendered violence• The right to freedom of association• The right to freedom of movement• The right to the highest attainable standard of physical and mental health• The right to just and favourable conditions of work• The right to an adequate standard of living• The right to social security• The right of children to special protection

Source: United Nations, Human Rights and Human Trafficking, [Fact Sheet No 36](#), 2014.

At international level, human trafficking was defined for the first time in 2000 and the agreed definition⁴ (Trafficking Protocol or Palermo Protocol) describes 'trafficking in persons' as 'the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs; (b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used' (Article 3).

Briefly, trafficking in persons means exploiting vulnerable persons for financial gain; these persons are mainly forced into prostitution (most of the cases), forced labour, begging, forced sham marriages, forced criminality, or removing and selling their organs.

⁴ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime ([Trafficking Protocol](#)).

From a legal perspective, human trafficking implies three key elements: action, means and purpose. In other words, a person is recruited (action) by threat (means) in order to be exploited (purpose). This three-fold approach only applies to adults, where children (persons under 18 years of age) are involved, the action and the purpose are sufficient to consider (prove) trafficking.

In the EU two main 'channels' are employed in the protection and fight against human trafficking: at Member State level and at EU level. Since the opening of the UN Trafficking Protocol for signature (ratified to date by all EU Member States), European countries have introduced a specific offence on human trafficking in their criminal codes and/or 'amended their anti-trafficking legal frameworks, mainly modifying their criminal code to cover forms of trafficking not previously criminalised'.⁵ At the same time, the CoE Convention has been ratified by all EU Member States. In addition, the European Commission is mapping the way each Member State addresses different human trafficking issues, by gathering in-depth national information and resources in the field.⁶

The EU has a comprehensive policy approach to human trafficking and has developed legal and operational tools to support the fight against all forms of human trafficking. Prohibiting THB has its roots in the Charter of Fundamental Rights of the European Union (Article 5.3). The cornerstone of the EU framework in this area is Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims (Anti-Trafficking Directive), which puts forward a victim-centred, gender-specific and child-sensitive approach.

Directive 2011/36/EU aims at preventing trafficking, prosecuting the criminals and protecting the victims by putting common standards in place in all Member States. The directive covers several areas, including criminal law provisions, prosecution of offenders, protection and assistance for victims and to uphold their rights in criminal proceedings, and prevention and monitoring of the implementation. The directive takes a holistic approach to THB and has a strong gender dimension.

The Anti-Trafficking Directive has been complemented with supporting legislative and non-legislative actions and mechanisms. These include: Directive 2004/81/EU on the residence permit issued to third-country nationals who are victims of trafficking in human beings,⁷ the EU Anti-Trafficking Coordinator, the EU strategy towards the eradication of trafficking in human beings 2012-2016 and the 2017 European Commission communication on the follow-up to the EU strategy,⁸ the EU network of national rapporteurs or equivalent mechanisms (NREMs), and the second report (2018) on the progress made in the fight against trafficking in human beings.⁹ Some of these instruments and documents have been presented in previous European Parliamentary Research Service (EPRS) studies,¹⁰ so the present EIA will refer in more detail only to the last report to date (2018), relating to the implementation of Directive 2011/36/EU.

⁵ United Nations Office on Drugs and Crime (UNODC), [Trafficking in persons](#); Analysis on Europe, Vienna, 2009, p.5.

⁶ EU Anti-Trafficking Website, [Member States](#) section.

⁷ [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, OJ L 261, 6 August 2004, p.19-23.

⁸ Communication from the Commission to the European Parliament and the Council, reporting on the follow-up to the EU strategy towards the eradication of trafficking in human beings and identifying further concrete actions, [COM\(2017\) 728 final](#).

⁹ Report from the Commission to the European Parliament and the Council, second report on the progress made in the fight against trafficking in human beings (2018) as required under Article 20 of Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims, [COM\(2018\) 777 final](#).

¹⁰ See in particular EPRS, [Trafficking in Human Beings from a Gender Perspective \(Directive 2011/36/EU\): European Implementation Assessment](#), 2016.

The EU approach to tackling trafficking focuses on protection and assistance for victims, by taking its gender dimension into account and, at the same time, developing a clear understanding of the unique way it affects both human beings and countries; as well as a multidisciplinary and evidence-driven understanding to provide a tailored anti-trafficking response. As we will illustrate in the next section of this introduction (also reflected in the research paper annexed to this EIA), progress has been made in tackling human trafficking in EU countries, based on both the application of current tools and the cooperation between different actors. However, a lot of grey areas persist, starting with the phenomenon itself, which remains highly under-represented because identifying it relies on the complex issue of victim identification. A proportion of the phenomenon is therefore an invisible reality. Much statistical data, reports and studies, show that efforts are still necessary to build a solid capacity to identify victims, especially among people most likely to be in contact with victims of trafficking (enforcement officers, prosecutors, healthcare providers, educators, child welfare officials, labour inspectors, etc.). This means that many victims and traffickers remain undetected in practice and are not included in reporting and statistics. The general picture of trafficking at EU level may yet remain far from the reality.

2. Latest developments in the EU fight against trafficking in human beings

2.1. Second report on the progress made in the fight against trafficking in human beings (2018)

According to Article 20 of Directive 2011/36/EU, the European Commission has to report on the progress made by the EU and its Member States in the fight against human trafficking every two years.

The first report, issued in 2016, took stock of the existing situation and the progress made in combating THB, while identifying trends and challenges. It also pointed out several important issues, such as: increasing numbers of child victims of human trafficking; increasing numbers of victims with disabilities and victims from Roma communities; the link between human trafficking and other forms of crimes; and the use of new technologies to recruit and exploit victims of THB. In this respect, the Commission concluded that 'Member States should **address and prioritise tackling all forms of exploitation**; increase the **number and effectiveness of investigations and prosecutions**; work on **improving data collection** in the field of trafficking in human beings; focus on the **early identification of all victims** including by putting in place the right mechanisms to do so; ensure all victims are offered **protection and assistance**; take **gender-specific** measures and adopt a **child-centred** approach in all actions; focus on **the most vulnerable** victims including at-risk children; provide **adequate support to child victims**; **prevent** trafficking in human beings by addressing **the demand** that fosters all forms of exploitation; systematically **evaluate national strategies and action plans**; allocate **adequate resources** to address trafficking in human beings; and **cooperate meaningfully with civil society**'.¹¹

The latest report to date (2018) is based, as mentioned by the document, on a variety of sources, including:

- information collected by the national rapporteurs or equivalent mechanisms at Member State level and transmitted to the EU Anti-Trafficking Coordinator;
- actions carried out by both the European Commission and other stakeholders in accordance with the EU strategy and the 2017 communication;
- non-governmental organisation (NGO) contributions;
- information from relevant EU agencies, international and regional organisations.

Compared to the previous report, patterns and trends tend to be confirmed as regards the main elements relating to the topic: sexual exploitation remains the most widespread form of trafficking (56 %), affecting essentially women (95 %), followed by labour exploitation, which mainly affects men (80 %), while impunity of perpetrators continues to impact the level of prosecutions and convictions, which remains low. As for identifying victims, there are serious indications that the figures are lower than the real situation. Moreover, the quality and comparability of data should be improved, to better inform the policy-making process.

New trends have also been identified, such as: increased trafficking in relation with migration flows (women and girls trafficked through the Central Mediterranean route and abuses within the asylum

¹¹ Report from the Commission to the European Parliament and the Council – report on the progress made in the fight against trafficking in human beings (2016) as required under Article 20 of Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims, [COM\(2016\) 267 final](#), pp.14-15.

system), increased trafficking in children, and use of internet-based technologies to recruit and exploit victims.

The report also highlights several areas of progress on: cross-border cooperation and cooperation with civil society, use of financial investigations, creation of joint investigation teams, developing national and transnational referral mechanisms.

The European Commission report concluded that there is still significant room for improvement both as regards implementation and enforcement of legislation, given that 'the low numbers of convictions and prosecutions, together with the number of EU victims, suggest that the need to continue stepping up identification of victims, investigation, prosecution, collecting and improving data recording and registration, cross-border cooperation and raising awareness persists.'¹² The Commission also highlighted several measures and actions to be taken by Member States and at EU level, as shown in Figure 2.

Figure 2 – Further measures to combat human trafficking

STEPPING UP ACTION

Member States should:

- ▶ **Criminalise those who knowingly use services provided by victims of trafficking**, in order to counter impunity by ensuring that those who exploit and abuse victims are brought to justice.
- ▶ Take measures that tackle **all aspects of the trafficking chain**.
- ▶ Address **all forms of exploitation** and ensure that all categories of victims are placed at the forefront of action and receive equal attention.
- ▶ Ensure that **awareness-raising** and **training measures** are targeted and achieve concrete results, especially on prevention.
- ▶ Enhance **transnational law enforcement and judicial cooperation**, within the EU and beyond.
- ▶ Boost capacity for **identification of victims**.
- ▶ Provide victims with **gender and age specific assistance** and protection.
- ▶ Ensure tools are in place for victims to access **compensation**.
- ▶ Address trafficking in human beings in the context of migration, including by addressing **special needs of women and girls trafficked for sexual exploitation** in the EU.
- ▶ Allocate **sufficient resources**, using to the maximum extent the funding available at EU level.
- ▶ Improve **data collection** for better monitoring and policy-making.

The Commission will continue to:

- ✓ Monitor the implementation of the Anti-Trafficking Directive and the Employers' Sanction Directive.
- ✓ Support Member States in improving the efficiency and effectiveness of investigations and prosecutions, allowing them to follow the money and the profits from trafficking, and encourage them to criminalise those who use the services of victims.
- ✓ Support Member States in improving the quality and comparability of statistical data on trafficking.
- ✓ Provide financial support to ensure the development of policy and operational measures to eradicate trafficking in human beings in line with EU priorities.
- ✓ Coordinate and ensure coherence in the EU's response, both within and outside the EU.

Source: European Commission, [Second report factsheets](#)

¹² Report from the Commission to the European Parliament and the Council, Second report on the progress made in the fight against trafficking in human beings (2018) as required under Article 20 of Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims, [COM\(2018\) 777 final](#), p.11.

According to the data presented by the European Commission in its report, there were 20 532 registered victims of trafficking in the EU in 2015 and 2016, 44 % of whom are EU citizens. As already mentioned, these percentages represent only a part of the actual situation.

2.2. European Parliament action against trafficking in human beings

The European Parliament is one of the institutions actively and permanently involved in supporting and shaping the policy-making process relating to the fight against human trafficking.

Following two European Parliament resolutions on 'Preventing and combating trafficking in human beings' (2016)¹³ and on 'The fight against trafficking in human beings in the EU's external relations' (January 2020),¹⁴ Parliament (through its Committee on Civil Liberties, Justice and Home Affairs (LIBE) and the Committee on Women's Rights and Gender Equality (FEMM)) started preparing an implementation report on the 'Implementation of Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims'.

As already mentioned, despite the legislative and policy framework established in the EU and the progress made in the field, as long as the number of victims is increasing, human trafficking remains a serious concern.

An EPRS study from 2016,¹⁵ providing evidence in support of the first EP report on the implementation of Directive 2011/36/EU, concluded there is an 'uneven implementation of the directive's requirements across Member States', while the European Parliament resolution on the matter insisted on the need for better implementation in Member States and better protection for the victims.

In November 2018, the FEMM committee requested that EPRS prepare a study on human trafficking in the specific context of hotspots (first reception facilities for migrants and refugees), with a focus on gender related elements. The European Parliament has regularly stressed the need to improve early identification of victims, and this study shows that this remains a serious concern: 'the proper detection and protection of victims of trafficking in hotspots remain challenging at every step of refugees' and migrants' arrival in Europe. These shortcomings are particularly worrying, as proper identification – or failure to do so – of victims of trafficking will determine the types of follow-up procedures that will apply to them'.¹⁶ Moreover, 'there is an urgent need for gender-sensitive processes of victim identification and protection, especially in the field of trafficking, which (...) is highly gendered'.¹⁷

This EIA, aimed at providing evidence to support the preparation of the new implementation report on Directive 2011/36/EU, addresses the implementation of the directive in the context of migration

¹³ European Parliament resolution of 12 May 2016 on implementation of Directive 2011/36/EU of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims from a gender perspective ([2015/2118\(INI\)](#)).

¹⁴ European Parliament resolution of 5 July 2016 on the fight against trafficking in human beings in the EU's external relations ([2015/2340\(INI\)](#)).

¹⁵ EPRS, Trafficking in Human Beings from a Gender Perspective (Directive 2011/36/EU): [European implementation assessment](#), 2016.

¹⁶ A. Scherrer, [Detecting and protecting victims of trafficking in hotspots](#), EPRS, 2019, p.31.

¹⁷ Ibidem.

and from a gender perspective. These two elements are the common denominator for all the research tasks that underline the evaluation. In this regard, the following areas have been defined:

- General situation of THB in the EU;
- Prevention of trafficking across Member States and at EU level;
- Efficiency of the criminal systems across Member States and prosecution of offenders;
- Protection of trafficking victims;
- Cooperation between Member States and EU support.

To collate (existing and new) data, EPRS commissioned an external study – annexed to this EIA – aimed at providing a general assessment of the directive based on the five research tasks/areas, with a dual focus: migration and gender issues. For each of the defined areas, the external study was required to: indicate patterns, trends, obstacles, gaps and shortcomings, if any; indicate the key issues that affect the proper implementation of the directive and take any new or emerging element in relation to THB into consideration under each research task; breakdown data by gender, ethnicity and age, as well as targeting of persons, particularly women and girls, with developmental and physical disabilities; pay special attention to trafficking of children, both as regards the implementation of the specific provisions related to children's protection, assistance and support provided for in the directive and the situation of migrant children in the context of the risk of THB; provide information on the availability of data in each Member State in relation with the defined tasks, as well as on the extent to which these data are disaggregated and comparable; and give examples of best practices.

The research project covers all 27 EU Member States and combines, from a methodological point of view, desk research and data collection on the ground (as detailed in the annexed study).

2.3. Implementation of Directive 2011/36/EU: General remarks based on the data gathered in the study

This chapter presents the key findings gathered from the study annexed to this EIA (Human Trafficking Study – hereafter HTS) and follows the five research areas mentioned above. Before going into detail, it should be noted that, overall, the lack of or inconsistency of the data makes it difficult to obtain a clear picture on how Directive 2011/36/EU is implemented by the Member States, and this holds true for all the elements covered by this evaluation.

General situation of human trafficking in the EU. If the main trends remain unchanged, with the majority of victims being subject to sexual (56 %), labour (26 %), or other forms of exploitation (18 %), it is worth mentioning that in seven Member States the main form of exploitation is labour exploitation. At the same time, within another 'confirmed' trend – 95 % of sexual exploitation victims are female and 80 % of labour exploitation victims are male – precise gender data on the nature of 'other forms of exploitation' are missing. As regards the modus operandi of criminal networks, this has not changed, but internet-based technologies are increasingly used, making it even more difficult for the authorities to identify trafficking and traffickers.

Prevention and protection. Available data does not allow a clear understanding of what has been done, and this is also the case in relation with gender and migration. However, progress is clear in the increasing number of Member States criminalising the conscious use of services provided by victims of trafficking. The number and types of training available to professionals who encounter victims, or the fact that protection and services for vulnerable groups, including disabled persons and children, are provided by Member States are also areas of progress. Unfortunately, for all these elements, grey or problematic areas persist. For instance, only 10 Member States have explicitly criminalised the use of services under all forms of exploitation, and even these countries have

reported difficulties in applying the directive. As for professional training, available data do not allow an evaluation of their effectiveness. Furthermore, to protect victims, many Member States lack adequate child protection and assistance services (the most critical element seems to be the (inadequate) accommodation of child victims), as well as capacity to offer special assistance or consideration to victims with physical or developmental disabilities.

With regard to the number of prosecutions and convictions, the trend is decreasing since 2016, which 'reinstates the sense of impunity among offenders' (HTS, p.52).

Asylum procedures and human trafficking. The study reveals that, despite the existence of measures to identify victims of trafficking, their actual functioning is rather limited and challenged by a series of elements, such as the lack of data on identified victims in international protection procedures, lack of national resources for an accurate identification of THB victims, lack of gender- and child-specific identification (only a few Member States adopted gender-based protocols for the identification of victims) and protection measures. This suggests that 'the objectives of the EU Anti-Trafficking Directive have not been fully achieved or actualised' (HTS, p.66).

Efficiency of the criminal system. The research carried out in the context of this EIA showed that the directive's implementation is halfway to completion. On the one hand, there are clear areas of progress, achievements and good practices (for instance, the introduction of solutions aimed at tackling low rates of investigation, prosecution and conviction at Member State level were indicated). On the other hand, many challenges are also identified. If adequate legal frameworks seem to be in place at national level, their implementation often remains problematic. In this 'grey zone', it can be pointed out that 'Member States have legal provisions which allow the authorities not to prosecute or punish THB victims. However, their practical application still leads to victims, both adult and children being punished, including with imprisonment. This can reinforce distrust towards the respective criminal justice system and produce serious human rights violations' (HTS, p.77). Other examples include: the uneven access to legal services based on the migration status of a THB victim; the limited use of witness protection programmes and other similar measures by Member States; failures in the application of protection measures preventing secondary victimisation (such as, for instance, lack of specific knowledge or sensitivity, as well as attitudinal barriers); prosecution of THB as other crimes, etc.

Cooperation between Member States. This topic has been addressed both as regards the EU support to Member States and effective cooperation across Member States. Overall, for both components, data collected for this evaluation shows that involvement of actors and cooperation between them have increased. However, as for the entirety of the topics covered by this EIA, there is still room for improvement and challenges to be addressed.

With regard to the support at European level, it has been noted that 'the specific context of migration and the scope of the migrant situation, requires more focused and coordinated efforts. In particular, there is a need to account for the specific vulnerabilities of children and women. (...) more accountability mechanisms and better evaluation of various agencies are desirable and even necessary for ensuring upholding of human and victim rights' (STH, p.110).

Effective cooperation between Member States is crucial in the prevention, identification and protection of THB victims, particularly in the migration context. Among the problems indicated by Member States as challenging this cooperation, are the lack of easily-identifiable focal or contact points in other countries, lack of approximation/harmonisation of legal and law enforcement frameworks across Member States, differing societal and legal approaches to prostitution across the EU (with impact on the fight against trafficking for sexual exploitation). In this respect, interviewees participating in data collection suggested several elements that could benefit more effective cooperation: 1) the implementation of a EU-wide transnational referral mechanism;

2) standardisation of the application of the Dublin Regulation in case of victims of THB; 3) prevention materials common to all EU Member States; and 4) an e-platform for anti-trafficking related law enforcement agencies, designed to share best practices of effective criminal investigation (STH, p.110).

An increased involvement from civil society organisations would also be valuable.

2.4. Conclusions

This European implementation assessment relies on the attached study on 'Trafficking in Human Beings: Migration and Gender Issues', as a main source of information. Based on both existing information and freshly collected data, this evaluation attempts to complete the general picture on the implementation of Directive 2011/36/EU, the legislative benchmark at EU level for fighting trafficking in human beings and ensuring victims are protected. The evaluation addressed the main topics covered by the directive – prevention of human trafficking, functioning of criminal systems across Member States and prosecution of offenders, protection of victims, and cooperation between Member States in the dual context of gender issues and migration.

The key findings of the research carried out for this purpose lead to the conclusion that the degree of implementation of the directive varies between EU countries, and even if, most of the time, national measures complying with the requirements of the directive have been put in place, their effective application remains a subject of concern. At almost 10 years after its entry into force, data on the various elements of the directive and their implementation are still poor, their consistency is sometimes problematic and the differences between national legal and enforcement frameworks, added to differences in societal approaches in relation with some of the elements covered by the directive, make a clear and deep evaluation particularly difficult.

The main trends and patterns have not significantly changed over the years. They have merely been 'adjusted' according to the social (migration, for instance) or technological (use of internet) context. This adds a new layer to the complexity of the phenomenon, which nevertheless remains seriously under-represented.

As for the two foci of this evaluation – gender and migration – globally, appropriate tools allowing accurate identification of victims, and, consequently, individualised approaches and protection are lacking. In addition, regarding the very sensitive question of children, even if generally considered in national legislation, protective measures do not appear fully or adequately implemented.

Overall, the European legislative approach appears to be beneficial and supportive for the victims of human trafficking, even if it is worth mentioning here that some Member States consider that the application of another piece of EU legislation – the Dublin Regulation¹⁸ – might interfere with the rights and best interests of THB victims. Nevertheless, the application of Directive 2011/36/EU, which is the most important legislative tool in this area, is not fully accomplished. The shortcomings and obstacles identified in this research are significant enough to hamper the achievement of its objectives to a certain extent.

¹⁸ [Regulation \(EU\) No 604/2013](#) of the European Parliament and of the Council of 26 June 2013, establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person, OJ L 180, 29 June 2013, p.31–59.

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Trafficking in human beings: Migration and gender issues

The aim of this research paper is to assess the implementation of Directive 2011/36/EU with a double focus on migration and gender.

This paper provides an overview of the current status of the implementation of the above-mentioned Directive within the 27 EU Member States.

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Executive summary

The exact scale of Trafficking in Human Beings (THB) within the EU remains difficult to assess. What is well-known though, is that THB is a complex crime and one of the most profitable forms of illicit trade out there as well as one of the gravest forms of fundamental rights violations.

The adaptation of Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims (the 'EU Anti-Trafficking Directive') has been a major step in the EU action to address THB. Progress has been made over the years although two previous studies already highlighted an uneven implementation of the Directive among the EU Member States.

This research paper assessed the improvements and the remaining challenges in the implementation of the EU Anti-Trafficking Directive with a dual-focus on migration and gender perspective in the following areas:

- i. General situation of trafficking in human beings in the EU;
- ii. Prevention of trafficking across Member States and at EU level and protection of victims;
- iii. Trafficking in human beings in the context of asylum procedures;
- iv. Efficiency of the criminal systems across Member States and prosecution of offenders;
- v. Cooperation between Member States and EU support.

The research methodology of this paper integrated both documented knowledge as well as undocumented insights through the use of desk research and field research. Desk research focused on relevant publications and documentation produced by EU institutions and agencies, international human rights monitoring institutions, national authorities and academia. Field research included three interviews with EU level agencies as well as a total of 95 interviews across all 27 EU Member States.

General situation of trafficking

The lack of consistent and detailed data continues to hamper the adequate assessment of trends in the number of victims. Some of the major Member States continue to lack regular and detailed data on victims of trafficking, whilst other Member States publish such data with delays. European institutions, including Eurostat and the European Commission (DG HOME), do not collect data on victims or perpetrators on a regular basis. The number of non-registered victims significantly exceeds the number of registered victims. Different methods have been used to estimate the total number of victims, and the resulting estimates vary from only 50 % of victims being registered in IE or RO, to roughly 20 % in NL and CY, to less than 10 % in FR and ES.

The main forms of exploitation remain unchanged with the majority of victims being subject to sexual exploitation (56 %), labour exploitation (26 %), or other forms of exploitation (18 %). However, in at least seven Member States (BE, IE, HR, FI, LT, PT, PL), the majority of the victims were victims of labour exploitation. A growing trend in some Member States suggests victims being subjected to multiple forms of exploitation (i.e. in labour and sexual exploitation, or forced marriage and other types of exploitation).

The gender characteristics of trafficking victims vary widely between the different types of exploitation. The significant share of unregistered victims combined with bias within institutions responsible for identifying the victims makes a precise understanding of the characteristics difficult. While 95 % of sexual exploitation victims are known to be female, and 80 % of labour exploitation victims are known to be male, there are important differences in the gender make-up of the 'other categories' of exploitation (e.g. forced criminality or begging), as well as in certain types of labour exploitation, such as domestic servitude, where the majority of victims are female. The modus operandi of criminal groups has remained largely unchanged, although some migrant smuggling

routes via the Mediterranean and abuse of the EU asylum rules have been used by traffickers. The increased role of new technologies, social media, and the internet has made trafficking increasingly 'invisible' to authorities, and more harmful to victims.

Prevention and protection

Research shows that Member States have been making efforts to comply with the prevention-related clauses of Directive with varying levels of success. Data is not always available to certify what progress has been made, including in relation to gender and migration. The number of Member States criminalising the use of services of victims of trafficking (VoT) with the knowledge that the providers are victims is growing since the adoption of the Directive in 2011, though explicit legislation is lacking in some cases, and other legal provisions are used to punish perpetrators. There is limited data available on prosecutions and convictions. Measures to enhance cooperation with the private sector in order to reduce demand for trafficked labour have increasingly been taken by Member States, especially in countries of destination of victims of trafficking, but overall, companies (and governments in countries of origin of VoT) need to invest more. A growing number and types of trainings for professionals who encounter victims are reported both at EU and Member State level but there is lack of data as to their effectiveness. Consistent funding is also an often-mentioned issue. While Member States do provide protection and services for vulnerable groups who are VoT, including disabled and children, problems persist. Additionally, the internet is increasingly recognised as a means for traffickers to recruit and control victims but can also be used as an avenue for governments to combat trafficking.

Context of asylum procedures

EU legislation provides a general framework for an improved identification and protection of THB victims in international protection procedures. The majority of Member States has recognised that asylum seekers are vulnerable to exploitation and have put in place measures to identify potential victims. Nevertheless, the proper implementation of identification and protection measures has been challenged by the lack of data on identified victims in international protection procedures which limits the evaluation of the applied policies. Furthermore, there appears to be limited time and resources in some Member States to apply a personalised approach in the identification of THB victims. Asylum seekers' fear to report exploitation remains because of fear of insecurity of residence and penalisation by the state. Poor reception conditions that are not adequate to monitor identified THB victims among asylum seekers as well as an increased number of asylum applications limits the capacities of Member States to provide protection.

Efficiency of the criminal system

The Anti-Trafficking Directive, together with the Victims' Rights Directive and Residence Permit Directive, create a legal framework capable of addressing the needs of victims. Progress in its implementation is visible and examples of many good practices can be shown. At the same time, important challenges remain and disquieting patterns can be indicated. Detection and identification of victims remain low, revealing a need for stepping up efforts in encouraging self-reporting and proactive detection practices. While many protection measures have been introduced in Member States, the needs of victims are not sufficiently addressed yet. In particular the needs of migrants with an irregular status and children on the move demand more attention within the system. THB victims – including children, often in the context of migration – are still prosecuted and punished by Member States for offences which they were forced to commit. With low rates of prosecution and conviction among THB offenders, a strong sense of injustice can be created, leading also to secondary victimisation. Research results underscore the risks involved in an uncoordinated and fragmentary response to THB, and underline the need for comprehensive, multidisciplinary cooperation among all involved stakeholders under clear governmental

leadership. In various aspects discussed in the chapter, it is not the law, but the practice that required attention, which suggests a continuous need to build the knowledge, expertise and sensibility of those who shape this practice.

Cooperation between EU Member States

In the context of increased migration to the EU, the importance of Member States' collaboration in the prevention, detection and ensuring of rights of THB victims becomes ever more pressing. With different Member States playing the role of entry, transit, and destination countries in the increasingly complex criminal operations spanning across multiple locations, effective collaboration between countries and support from the European agencies are crucial for an effective countering of the crime. When more than one EU Member State is affected by a trafficking case, or an EU Member State and a non-EU country, cross-border cooperation on the referral of victims of trafficking to appropriate services to allow them to access their rights is necessary.

Research for this study revealed that effective cooperation between the Member States has been progressively increasing over the years and examples of good pan-EU, regional and bilateral practices can be identified. Member States benefit from and appreciate different forms of support provided by various EU agencies and instruments but a number of challenges and areas for improvement remain, in particular relating to a need for more accountability of 'multi-agency' approaches. Further enhancement of the cooperation would benefit, amongst others, from harmonisation of legal and law enforcement frameworks across the Member States, from establishing and maintaining contacts amongst the stakeholders, and from a standardisation of the cooperation models, such as the transnational referral mechanisms. Ensuring the protection of victims' rights and addressing the victims' perspective in the framework of transnational cooperation is of utmost importance. This remains particularly relevant in the context of the application of the Dublin Regulation.

List of abbreviations

ALEFA	Association of Law Enforcement Forensic Accountants
AMIF	Asylum, Migration and Integration Fund
ATC	Anti-Trafficking Coordinator
AVRR	Assisted voluntary return and reintegration
CEPOL	EU Agency for Law Enforcement Training
CoE	Council of Europe
CSO	Civil society organisations
DG HOME	Director-General for Migration and Home Affairs
EASO	European Asylum Support Office
EIA	European implementation assessment
EIGE	European Institute for Gender Equality
EJTN	European Judicial Training Network
EMCDDA	European Monitoring Centre for Drugs and Drug Addiction
EMPACT	European Multidisciplinary Cooperation Platform Against Criminal Threats
EPRS	European Parliamentary Research Services
EU	European Union
EU 27	27 EU Member States
EU ATC	EU Anti-trafficking Coordinator
EU-LISA	European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice
Eurofound	European Foundation for the Improvement of Living and Working Conditions
Eurojust	EU Judicial Cooperation Unit
Europol	European Police Office (Europol)
FEMM	European Parliament's Committee on Women's Rights and Gender Equality
FRA	EU Agency for Fundamental Rights
Frontex	European Border and Coast Guard Agency
HOF BRS	Harmonized Operational Framework in the Baltic Sea Region
ISF	Internal Security Fund
ICMPD	International Centre for Migration Policy Development
JAD	Joint Action Days
JIT	Joint Investigation Teams

LIBE	European Parliament's Committee on Civil Liberties, Justice and Home Affairs
MASP	Multi-annual strategic plan
NGO	Non-governmental organisation
NREM	National Rapporteurs and/or Equivalent Mechanisms on trafficking human beings
OAP	operational action plans
OCG	Organised crime groups
ODPP	Office of the Director of Public Prosecutions
OSCE	Organization for Security and Co-operation in Europe
OTF	Operational Task Forces
THB	Trafficking in human beings
TRM	Transnational referral mechanisms
UNODC	United Nations Office on Drugs and Crime

Country Codes

AT	Austria
BE	Belgium
CH	Switzerland
CY	Cyprus
CZ	Czechia
DE	Germany
DK	Denmark
EE	Estonia
EL	Greece
ES	Spain
FI	Finland
FR	France
HR	Croatia
HU	Hungary
IE	Ireland
IT	Italy
LT	Lithuania
LU	Luxembourg
LV	Latvia
MT	Malta
NL	The Netherlands
NO	Norway
PL	Poland
PT	Portugal
RO	Romania
SE	Sweden
SI	Slovenia
SK	Slovakia
UK	United Kingdom

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1. Introduction

The first chapter of this research paper describes the general setting and context of this research. Chapter 1 provides an outline of the areas that have been reviewed during this study and how these are interlinked.

1.1. General context of the research paper

Trafficking in human beings is one of the most profitable forms of illicit trade and, at the same time, one of the gravest forms of fundamental rights violations. The exact scale of trafficking in human beings (THB) within the European Union is difficult to assess. It is a complex crime that can be intertwined other phenomena, such as (irregular) migration, commercial sex activities, or the grey economy. In addition, differences in national legal definitions of human trafficking hinder the comparison and assessment of common trends and patterns across the EU¹⁹.

A major step in the EU action to address THB was the adoption of Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims (the 'EU Anti-Trafficking Directive'). The Directive provides for a common definition of trafficking in human beings and lays down minimum standards at European Union level in preventing and combating trafficking in human beings and protecting victims. It adopts a human rights-based, child-sensitive and gender-specific approach, to strengthen the prevention of this crime and the protection of and assistance to the victims thereof.

The term 'trafficking in human beings' used in this research paper is based on the definition given in the Directive. Reciting Article 2, paragraph 1²⁰ of Directive 2011/36/EU, the term 'trafficking in human beings' is to be defined as:

'[T]he 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 vulnerability²¹ or of the giving or receiving of payments or benefits to achieve the consent²² of a person having control over another person, for the purpose of exploitation²³.'

In addition to this definition, Article 2 paragraph 5 of the Directive specifies that a 'child' i.e. any person below the age of 18 years is involved 'when the conduct is referred to in paragraph 1 [...] it shall be a punishable offence of trafficking in human beings even if none of the means set forth in paragraph 1 has been used.'

1.2. Research objective

The objective of this research paper is to support with evidence the preparation of the implementation report on Directive 2011/36/EU, prepared by the Committee on Civil Liberties,

¹⁹ Europol (2016). [Situation Report: Trafficking in human beings in the EU](#), 2016.

²⁰ [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](#) (quoted as Directive 2011/36/EU)

²¹ 'A position of vulnerability means a situation in which the person concerned has no real or acceptable alternative but to submit to the abuse involved' as found in Article 2 (2) [Directive 2011/36/EU](#).

²² The consent of a victim of trafficking in human beings to the exploitation, whether intended or actual, shall be irrelevant where any of the means set forth in paragraph 1 has been used.

²³ 'Exploitation shall include, as a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, including begging, slavery or practices similar to slavery, servitude, or the exploitation of criminal activities, or the removal of organs' as found in Article 2 (3) [Directive 2011/36/EU](#).

Justice and Home Affairs (LIBE) and the Committee on Women's Rights and Gender Equality (FEMM) of the European Parliament, at the request of the European Parliamentary Research Service (EPRS).

The research paper assesses the improvements and the remaining challenges in the implementation of the EU Anti-trafficking Directive, in the following areas:

- General situation of trafficking in human beings in the EU;
- Prevention of trafficking across Member States and at EU level and protection of victims;
- Trafficking in human beings in the context of asylum procedures;
- Efficiency of the criminal systems across Member States and prosecution of offenders;
- Cooperation between Member States and EU support.

This research paper builds upon two previous studies that already highlighted an uneven implementation of the Directive among the EU Member States.²⁴ The paper focusses on human trafficking in the context of migration and human trafficking from a gender perspective. As such, the study is characterised by five vertical areas and two cross-cutting perspectives, which can be depicted as below:

Figure 1.1 – Horizontal and vertical research areas

	General situation	Prevention	Asylum	Criminal	EU Member States Cooperation
Migration					
Gender					

Source: Ecorys

The project specifically looks into: patterns, trends, emerging elements obstacles, gaps, shortcomings; key barriers to implementation of the Directive; breakdown by gender, age and ethnicity; woman and girls with disabilities (developmental, physical); children (protection, assistance & support) and migrant children; emerging technology and social media recruitment methods; availability and comparability of data in EU Member States; and best practice examples from EU Member States.

²⁴ EPRS, [Detecting and protecting victims of trafficking in hotspots: Ex-post evaluation](#), 2019; and EPRS, [Trafficking in Human Beings from a Gender Perspective: Directive 2011/36/EU: European Implementation Assessment](#), 2016.

2. Methodology

Chapter 2 of this research paper briefly describes the methodology that has been deployed to gather evidence-based data for this research, enabling the assessment of improvements and remaining challenges on the current status of the implementation of Directive 2011/36/EU.

Desk research

The research methodology of this paper has been two-folded and included both desk research and field research. Desk research has been the predominant method of research. A systematic collection and analysis of relevant literature has been carried out which resulted in a comprehensive review of literature, including publications produced by EU institutions and agencies, international human rights monitoring institutions (e.g., Council of Europe's GRETA), national authorities, and academic and grey literature. Where possible, findings have been based on an array of different sources. References can be found in the respective footnotes as well as the bibliography.

To acquire undocumented insights, the data collection also involved interviews with various EU level agencies and interviews with national institutions of all the respective 27 EU Member States.

EU Member States interviews

To assess the level of cooperation between the Member States and the EU level, national experts have been mobilized in all 27 EU Member States who have been given an interview template for their respective country. For every EU Member State, interviews with at least 2 to 4 actors have been acquired. Relevant actors for this study were the National Rapporteur or Equivalent Mechanism on trafficking in Human Beings, policy makers, judges, prosecutors, policy, border and asylum authorities, Civil Society Organisations and NGOs. An overview of the anonymised interviewees can be found in Annex 1. Across all 27 EU Member States, a total of 95 interviews have been conducted. The structured interview protocol can be found in Annex 2. Although the focus of the EU Member States interviews revolved around the cooperation between EU Member States and EU support, a variety of questions relevant for the other areas were incorporated within the interview protocol to enhance robustness of the research paper by cross-checking desk research findings.

EU Level interviews

To cross-check findings that resulted from desk research, and to collect potential new insights on the current status of THB and the directive, three interviews on EU level were scheduled with the Commission's Directorate-General for Migration and Home Affairs (DG HOME), European Border and Coast Guard Agency (Frontex) and European Asylum Support Office (EASO). Various other EU Agencies were approached (N=7) but did not respond to the interview invitation or did not see a role for their agency in respect to their added value. The interview questions can be found in Annex 3 of which the relevant categories were selected per type of agency.

3. General situation of trafficking

Key findings

The lack of consistent and detailed data continues to hamper the adequate assessment of trends in the number of victims. Some of the major Member States, such as France, continue to lack regular and detailed data on victims of trafficking, while others publish such data with delays. European institutions, including Eurostat and DG HOME, do not collect data on victims or perpetrators on a regular basis. The number of non-registered victims significantly exceeds the number of registered victims. Different methods have been used to estimate the total number of victims, and the resulting estimates vary from only 50 % of victims being registered in IE or RO, to roughly 20 % in NL and CY, to less than 10 % in FR and ES.

The main forms of exploitation remain the same with the majority of victims being subject to sexual exploitation (56 %) and labour exploitation (26 %), or other forms of exploitation (18 %). However, in at least seven Member States (BE, IE, HR, FI, LT, PT, PL), the majority of the victims were victims of labour exploitation. A growing trend in some Member States suggests victims being subjected to multiple forms of exploitation (i.e. in labour and sexual exploitation, or forced marriage and other types of exploitation).

The gender characteristics of trafficking victims vary widely between the different types of exploitation. The significant share of unregistered victims combined with bias within institutions responsible for identifying the victims makes a precise understanding of the characteristics difficult. While 95 % of sexual exploitation victims are known to be female, and 80 % of labour exploitation victims are known to be male, there are important differences in the gender make-up of the 'other categories' of exploitation (e.g. forced criminality or begging), as well as in certain types of labour exploitation, such as domestic servitude, where the majority of victims are female. The modus operandi of criminal groups has remained largely unchanged, although some migrant smuggling routes via the Mediterranean and abuse of the EU asylum rules have been used by traffickers. The increased role of new technologies, social media, and the internet has made trafficking increasingly 'invisible' to authorities, and more harmful to victims.

Chapter 3 addresses the first research area on the general situation of trafficking. The aim of this chapter is to summarise the main trends in THB in the European Union in terms of:

- The numbers of registered victims and their profile (chapter 3.2.1 and 3.2.2);
- Forms of exploitation (3.2.3 and 3.2.4);
- Trends in modus operandi of traffickers (3.2.5).

The present section is based on assessment and review of the latest available statistical data (i.e., 2016) collected at EU level – by Eurostat or the European Commission. Available statistical data is complemented by criminal intelligence assessments by Europol of the risks of various categories of trafficking.

3.1. Research findings

3.1.1. Data on trafficking

Data on THB is not systematically collected by EU institutions, nor is it publicly shared on a regular basis. The most recent publicly available data from EU Member States refers to data collected in 2016.²⁵ In the course of the present report, data has been collected from all EU Member States, although many Member States have not yet published their 2019 figures, and the latest available

²⁵ European Commission, [Data collection on trafficking in human beings in the EU](#), 2018.

were from 2018 or even 2017. A number of Member States (FR, IT, DE) did not have up-to-date public information that would allow for victims data to be presented in a comparable fashion. Their data is presented in the national reports. Issues of data availability is not specific to the EU, but rather has been recognised as a challenge since at least 2009 by the United Nations Office on Drugs and Crime (UNODC). Around the world, building the capacity of national authorities to collect data on THB has become a critical aspect of supporting evidence-based policy responses.²⁶ Notably, reports published by international organisation, such as the UNODC's Global Report on Trafficking in Persons (2018)²⁷ and ILO's Global Estimates of Modern Slavery²⁸, also rely on the 2016 data. Other international data sources (e.g., IOM & Polaris) can be used to assess certain characteristics of victims of THB, but it largely reflects the work and mandate of these organisations rather than an objective or holistic picture of the situation in the EU.²⁹

There are two key indicators on which THB data is based, and that allow for drawing conclusions on key trends: registered victims and prosecuted traffickers.³⁰ At the EU level, THB victims have been reported under two categories: 'identified' and 'presumed' victims. Identified victims are those that have been formally identified by the authorities as victims of trafficking according to the definition set out in the EU Directive 2011/36/EU while presumed victims are those who meet the criteria of the Directive but have not been formally identified, or who have refused to be formally or legally identified as a trafficking victim.

There are two key issues with this indicator. Firstly, it is influenced by the institutional practices and referral mechanisms in place to actively identify victims. Secondly, it is widely agreed that the indicator largely 'undercounts' the scale of the phenomenon (see Box 3.1 below).³¹ The victims' data is provided by different institutions, including migration and border authorities, police, or NGOs.

²⁶ United Nations Office on Drugs and Crime (UNODC), [Global Report on Trafficking in Persons](#), 2018, p.8.

²⁷ UNODC, [Global Report on Trafficking in Persons](#), 2018.

²⁸ ILO, [Global Estimates of Modern Slavery: Forced Labour and Forced Marriage](#), 2017.

²⁹ For instance, the CTDC data on 29,000 victims assisted in Europe indicates that the EU countries with the largest 'case-load' are Poland, Italy, and Romania. However, other countries, which according to Eurostat have the most victims in the EU, such as the UK, the Netherlands, and Germany, are missing. See: [CTDC. Victims Exploited in Europe](#).

³⁰ Comparability of the victims or prosecutions data between EU Member States is largely acceptable.

³¹ This is also referred to as the 'dark figure' of crime – due to the clandestine nature of THB, there are no reliable estimates of the true extent.

Box 3.1 – Registered versus non-registered victims

Registered victims of human trafficking represent only a portion of the total number of victims of trafficking. There is no universally accepted method to estimate the actual numbers of victims in the EU due to differences in the criminal codes, reporting and monitoring systems and latency rates (i.e. the percent of victims who are identified by the police, NGOs or research entities).

Studies attempting to estimate the total number of victims of trafficking have been developed by UNODC³², ILO³³ and Eurostat³⁴, or academics³⁵. Various statistical techniques have been applied to estimate the hidden population of actual victims (most of them based on modifications of the 'capture-recapture' method). For instance, multiple systems estimation³⁶ combining datasets from a variety of sources have been used to define the actual number of victims of trafficking for sexual exploitation. The sources include police statistics of detected victims of trafficking, surveys of sexual behaviour (designed to estimate the demand for sexual services), research on organised criminal groups engaged in trafficking, estimates of the markets for sexual and labour exploitation, medical records on HIV prevalence et cetera.

Estimates of the actual number of victims, based on multipliers, or ratios of detected victims to total number of victims, provide widely differing estimates for different Member States. A study³⁷ by Transcrime suggested a multiplier of 20 (i.e. for every detected victim there are 20 undetected ones). In Spain³⁸ and France³⁹ the number of estimated victims was more than 10 times the number of registered ones. However, a recent study in the Netherlands carried out by the UNODC and the Dutch National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children indicates a much lower multiplier, between 4 and 5, applicable to the Netherlands.⁴⁰ An assessment in Cyprus yielded a similar result – about 18 % of victims were being registered⁴¹. Applying the same method as in NL, UNODC concluded that the overall level of non-registered trafficking victims in Ireland and Romania was approximately 50 % higher than what is currently detected⁴².

Using a multiplier of 20, a 2010 UNODC study estimated the total number of victims of sexual exploitation in Europe in 2006 at about 140,000, based on 7,300 registered victims. The ILO estimate of victims of sexual exploitation is 700,000, while the victims of labour exploitation are 3.9 million. However, these numbers refer to both Europe and Central Asia, and no estimate is provided for the EU alone. Recent research on the size of the prostitution market in the EU⁴³ placed the number of victims of sexual exploitation at about 110,000 (and the total prostitution market at 767,760 sexual workers).

³² UNODC, [The Globalization of Crime](#). See: Chapter on Trafficking in Persons to Europe for sexual exploitation, 2010.

³³ ILO, [Global Estimates of Modern Slavery](#), 2017.

³⁴ Eurostat, [Trafficking in Human Beings](#), 2015.

³⁵ K. Bales, O. Hasketh and B. Silverman, [Modern Slavery in the UK: How many victims?](#) 2015.

³⁶ Dutch National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children and UNODC, [Monitoring Target 16.2 of the United Nations Sustainable Development Goals: A multiple systems estimation of the numbers of presumed human trafficking victims in the Netherlands in 2010-2015](#), 2015.

³⁷ Transcrime, [A Pilot Study on Three European Union Key Immigration Points for Monitoring the Trafficking of Human Beings for the Purpose of Sexual Exploitation across the European Union](#), 2002.

³⁸ Interview ES, Country Report for Spain.

³⁹ ONDRP, [Grand angle: La Traite et l'Exploitation des Êtres Humains en France: Les Données Administratives](#), 2019, p.13.

⁴⁰ Dutch National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children and UNODC, [Monitoring Target 16.2 of the United Nations Sustainable Development Goals: A multiple systems estimation of the numbers of presumed human trafficking victims in the Netherlands in 2010-2015](#), 2015.

⁴¹ Group of Experts on Action against Trafficking in Human Beings (GRETA), [Evaluation Report. Cyprus. Third Evaluation Round. Access to justice and effective remedies for victims of trafficking in human beings](#), 2019.

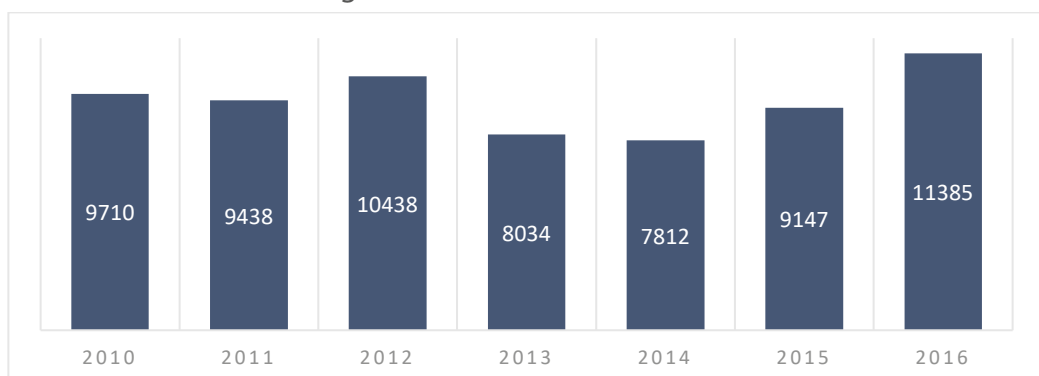
⁴² UNODC, [Research Brief: Monitoring Target 16.2 of the United Nations Sustainable Development Goals: multiple systems estimation of the numbers of presumed victims of trafficking in persons in Ireland](#), 2018, p.5.; UNODC, [Research brief: Monitoring Target 16.2 of the United Nations Sustainable Development Goals: multiple systems estimation of the numbers of presumed victims of trafficking in persons in Romania](#), 2018, p.3.

⁴³ P. Adair and O. Nezhyvenko, [Assessing how large is the market for prostitution in the European Union](#), 2017, pp.116-136.

3.1.2. Registered victims in the EU

The latest available official statistical data on registered victims indicates that from 2010 to 2012, the number of registered victims trended slightly upwards, from a total of 9,710 registered victims in 2010 to 10,438 in 2012. Following a decline to 7,812 victims in 2014, the overall number rose again in 2016 to a high of 11,385 (see Figure 3.1). However, this increase can be largely attributed to a rise in the number of registered victims in the UK. On a per-capita basis, the EU's overall detection rate reached 2.2 per 100,000 in 2016, which is amongst the highest in the world.⁴⁴

Figure 3.1 – Total number of registered victims, (2010-2016)



Source: Eurostat, 2015; European Commission, 2016, 2018⁴⁵

In the period from 2013 to 2014, NL reported the highest number of registered victims (2,998), followed by the UK (2,261), RO (1,653), IT (1,180), and DE (1,186). In 2015 and 2016, the total number of victims registered in UK and IT rose respectively to 7,071 and 1,660, while in the other Member States, the total number fell (DE: 1,006) or remained unchanged (NL: 2,442; RO: 1,636). The overall comparison of numbers is also difficult due to the fact that there were some gaps in the available data for the 2015-16 period, including Bulgaria, which has one of the highest numbers of registered victims.⁴⁶ The first detailed report⁴⁷ by the French government on the official registered number of victims revealed that the annual number is smaller than presented in the above quoted Eurostat /European Commission studies. According to the published statistics, there were 642 victims registered in 2017, down from 951 as reported in Eurostat / European Commission studies for the same year. Based on a per-capita basis, the picture appears somewhat different: the Member States with the largest number of victims registered were Malta (7.5 per 100,000 population), NL (6.7), UK (5.8), CY (5.2), HU (5.0) and AT (4.4).

In terms of citizenship, there have been no significant changes to the observed trends. The majority of the officially identified victims continue to be EU citizens, and the top countries of citizenship of the victims remain largely unchanged: Romania (3,959 victims), Bulgaria (1,876 victims), the Netherlands (924 victims),⁴⁸ Hungary (904 victims), and Poland (396 victims). The main countries of origin among non-EU victims continues to be Nigeria (1,188 victims), followed by China (467 victims), Albania (447 victims), Vietnam (302 victims), and Morocco (186 victims) (see depicted left in Figure 3.2).

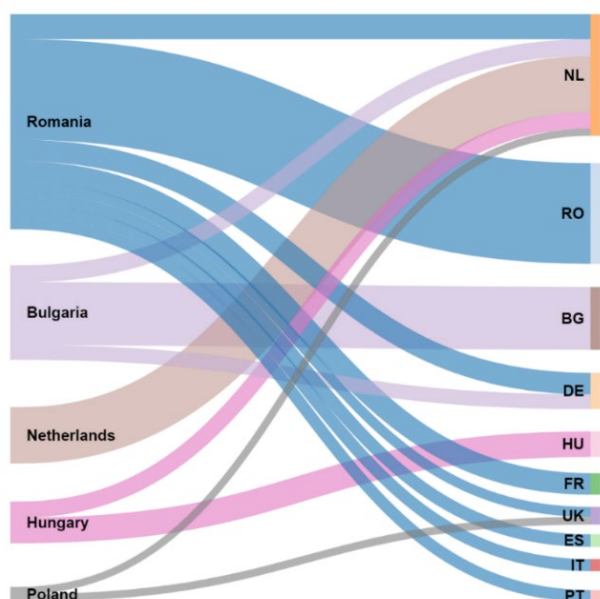
⁴⁴ Due to an average drop in 2014-15. See: UNODC, [Global Report on Trafficking in Persons](#), 2018.

⁴⁵ European Commission, [Data collection on trafficking in human beings in the EU](#), 2018.

⁴⁶ European Commission, [Data collection on trafficking in human beings in the EU](#), 2018, p.37.

⁴⁷ ONDRP, [Grand angle: La Traite et l'Exploitation des Êtres Humains en France: Les Données Administratives](#), 2019, p.13.

⁴⁸ The Netherlands has one of the highest shares of nationals falling victim to trafficking. Since 2004, the share of Dutch-born nationals has increased steadily. The possible explanation for this increase has been identification policies of the Dutch government, including the focus on recruitment via the 'loverboy model'. See: National Rapporteur on Trafficking in Human Beings, [Human Trafficking – ten years of independent monitoring](#), 2010, p.95.

Figure 3.2 – Major trafficking flows top 5 EU origin of victims (2013-2014)⁴⁹

In the preparation of this study, efforts were also made to collect national level data from all Member States on the number of registered victims during the period from 2017 to 2019. A total of 22 Member States provided partial or full information on registered victims disaggregated by sex and age (see Table 3.1). Of the countries that reported data for 2017 and 2018, NL reported the highest number of victims (1,799), followed by RO (1,159), BG (951) and ES (451). This preliminary data shows that at least two Member States – NL and RO – experienced a decrease in the number of registered victims compared to the period from 2015 to 2016 (see Table 3.2). Most registered victims continued to be EU citizens. Based on data provided by 16 Member States, EU nationals accounted for 64 % of the

registered victims on average in the period from 2017 to 2019.⁵⁰ As Eurostat advises, conclusions regarding victims' citizenships should be made with caution, given that many Member States do not report citizenship data and mechanisms regarding the reporting of victims are subject to change.

Table 3.2 – Registered victims in EU Member States (2017-2019)

Country	2017				2018				2019			
	Adult		Minors		Adult		Minors		Adult		Minors	
	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male
Belgium	65	51	4	0	116		6		N/A	N/A	N/A	N/A
Bulgaria	407	59	37	5	336	50	53	4	332	49	31	2
Czechia	12	12	10	0	17		11	0	4	11	15	0
Denmark	86	8	1	2	35	51	0	10	40	17	1	5
Germany	N/A ⁵¹	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Estonia	5	1	4	0	5	0	5	2	11	1	0	1
Ireland	42	30	3	0	30	29	3	2	31	2	7	2
Greece	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Spain	131	72	15	1	140	81	8	3	N/A	N/A	N/A	N/A
France	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Croatia	6	9	7	7	26	46	2	2	9	1	10	7

⁴⁹ [\[SWD\(2016\) 159 final\]](#)

⁵⁰ Based on data provided by BE, CZ, DK, EE, IE, ES, HR, CY, LT, LI, HU, NL, AT, RO, SI, SK.

⁵¹ N/A = No available data

Country	2017				2018				2019			
	Adult		Minors		Adult		Minors		Adult		Minors	
	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male
Italy	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Cyprus	18	5	0	0	37	4	0	0	35	1	0	0
Latvia	17	8	3	0	12	11	0	0	16	23	1	0
Lithuania	21	31	3	5	44	9	0	1	17	18	1	3
Luxembourg	12				3				N/A			
Hungary	0	0	0	0	3	0	0	0	35	0	19	0
Malta	5		N/A	N/A	35		N/A	N/A	N/A	N/A	N/A	N/A
Netherlands	649	214	156	39	438	240	53	10	N/A	N/A	N/A	N/A
Austria	39	16	5	1	N/A	N/A	N/A	N/A	65			
Poland	99		30		222		25		N/A	N/A	N/A	N/A
Portugal	42		18		13	26	10		N/A	N/A	N/A	N/A
Romania	248	74	258	82	181	104	182	30	293	78	288	39
Slovenia	65	1	0	0	70	31	0	0	6	1	0	0
Slovakia	47	30	11	0	21	22	13	0	34	22	9	1
Finland	67	48	6	10	83	70	4	6	139	76	7	7
Sweden	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

Source: Country reports compiled for this study.

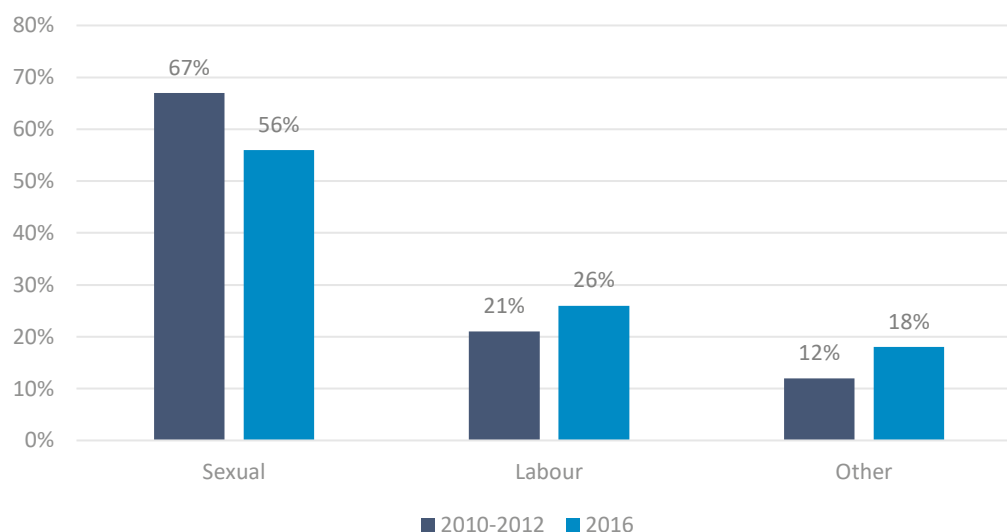
3.1.3. Forms of exploitation

Victims of trafficking in human beings can be subject to several different types of exploitation. According to Article 1(3) of Directive 2011/36/EU, exploitation includes, as a minimum, sexual exploitation, forced labour, forced begging, slavery, or practices such as slavery, servitude, the exploitation of criminal activities and the removal of organs. It broadens the scope of the definition established in the UN Protocol in that it considers the exchange or transfer of control over persons as a means of trafficking, and it lists forced begging and the exploitation of criminal activities among the forms of exploitation to be included in the minimum standard. However, the data show that trafficking for purposes of sexual exploitation continues to be the main form of trafficking (56 %), both within the EU and internationally.⁵² This is confirmed by national level data provided by the Member States for the same period (see Figure 3.3). Based on partial data provided by 21 Member States, on average, 66 % of registered victims were sexually exploited.⁵³ The share of victims of labour exploitation fell from 21 % in 2017 to 19 % in 2019. However, PL, HR, BE, and EE have noted a slow increase in the number of labour exploitation cases, partially due to the improved identification of victims and investigations.

⁵² Excluding the UK – the share of the cases linked to sexual exploitation would be 65 %.

⁵³ AT, BE, BG, CY, CZ, DK, EE, EL, ES, FI, FR, HR, HU, IE, LI, LT, NL, PL, PT, RO, SE, SI, SK.

Figure 3.3 – Types of exploitation in human trafficking (2010-2012 vs. 2016)



Source: European Commission (2018)⁵⁴

In 2017 and 2018, BE, IE, HR, FI, PT, PL reported more victims of labour exploitation than of sexual exploitation. Law enforcement authorities have noted that trafficking for the purpose of labour exploitation tends to prevail in cleaning, construction and caring industries (BE, MT). Some Member States have reported a visible upward trend in the number of the cases of trafficking for purposes of forced begging or other forms of forced criminality (BG, HR). Member States with Roma communities have also reported cases of forced marriage of women and/or children (BG, LT, PL, SK).

Table 3.3 – Number of registered THB victims in the period 2017-2019 by form of exploitation

Country	2017			2018			2019		
	Sexual exploitation	Labour exploitation	Other	Sexual exploitation	Labour exploitation	Other	Sexual exploitation	Labour exploitation	Other
Belgium	59	61	0	38	79	5	N/A	N/A	N/A
Bulgaria	323	67	115	309	59	74	280	44	80
Czechia	17	17	0	N/A ⁵⁵	N/A	N/A	N/A	N/A	N/A
Denmark	86	1	11	31	46	20	38	17	9
Germany	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Estonia	6	0	4	9	0	1	11	1	0
Ireland	31	35	9	27	35	2	36	5	5

⁵⁴ European Commission, [Data collection on trafficking in human beings in the EU](#), 2018, p.55.

⁵⁵ N/A = No available data

Greece	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Spain	155	58	6	124	94	17	N/A	N/A	N/A
France	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Croatia	9	14	19	10	3	64	12	5	11
Italy	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Cyprus	16	6	2	30	15	8	23	14	12
Latvia	8	8	9	6	11	6	7	28	4
Lithuania	9	37	14	31	5	8	17	9	13
Luxembourg	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Hungary	396	10	0	511	3	0	324	12	0
Malta	N/A	N/A	N/A	2	7	1	N/A	N/A	N/A
Netherlands	690	230	203	558	114	107	N/A	N/A	N/A
Austria	24	3	7	N/A	N/A	N/A	N/A	N/A	N/A
Poland	46	34	49	86	142	19	N/A	N/A	N/A
Portugal	6	27	0	5	38	4	N/A	N/A	N/A
Romania	454	79	80	335	100	26	518	115	24
Slovenia	66	0	0	67	2	32	5	2	0
Slovakia	N/A	N/A	N/A	19	31	7	13	43	15
Finland	46	62	16	65	63	35	81	76	70
Sweden	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

Source: Official Member State data compiled for this study in Country Reports

A number of new forms of exploitation were identified by country reports. The issue of forced marriage was identified, where Bulgarian or Slovak women, mostly of Roma background, were forced to marry third-country nationals in order for them to receive resident status in the EU.⁵⁶ Other reports noted the growing need for cheap labour in the home-care sector (either au-pair or elderly care), leading to a growing number of identified cases (IE).

Another trend identified by some interviewees relates to multiple forms of exploitation. Examples include victims working in domestic servitude by day and sexual exploitation at night (IT); victims of forced marriage who are simultaneously exploited for sexual or labour purposes; or victims of benefits fraud and forced marriage (CZ). New forms of sexual exploitation have also been identified, including a growing demand for sex services by transsexual sex workers, which has led to a rise in the number of transgender victims (AT).

3.1.4. Gender characteristics of victims

An understanding of the gender characteristics of victims and gender specifics of the trafficking in human beings is key to adopting appropriate victim support, as well as appropriate migration, and

⁵⁶ Interview BG03.

criminal justice policies. Such an understanding is also needed in order to identify victims and their needs, and to ensure equal treatment and equal access to services.⁵⁷

Previous research has already underlined the significant limitations and challenges with the existing data. Firstly, data collected both by Member States and by Eurostat do not differentiate in sufficient detail the victims of trafficking in terms of age and sex / gender. This is particularly true for the category 'other types of THB' where important variations among different types of trafficking exist. Another issue is that most Member States, although aware of the significant gap between registered and non-registered cases, have no reliable estimates of the hidden number (see previous section). The registered data, though, can itself be the result of biased treatment, and may have gender characteristics which are different from the ones of the overall victims' population. Therefore, changes in the identified 'gender' trends may be the result of improved identification of victims or policy priorities, rather than actual changes in the gender characteristics.⁵⁸ The data presented in the national research in Cyprus, for instance, showed that while 22 % of female victims had been identified, only 17 % of male victims were identified.⁵⁹

Statistics may be also influenced by the issue of gender identification, brought up by at least one national report – transgender victims of THB in Czechia, who arrived from countries not recognizing transgender rights, were registered by authorities as their sex was listed in their travel documents (male), while NGOs working with them applied a sensitive approach and identified and registered them as women. Therefore, the data below draws both on official registrations by authorities, as well as on data from NGOs, which includes information on non-registered victims.

The gender characteristics of victims varies between the different types and sub-types of exploitation. While there have been no shifts in the gender characteristics, improved identification of victims has started to reveal some of the details related to the different types of exploitation.

Victims of sexual exploitation preserved the same characteristics: the vast majority of identified victims were female (95 %). In respect to gender characteristics of victims of labour exploitation identified within the European Union between 2010 and 2016 period, increased from 71 % to 80 %. On the other hand, some categories, of forced labour, such as domestic servitude, the victims are predominantly female.

During the same period, the share of female victims increased in 'other' categories of exploitation. On the other hand, when it comes to labour exploitation, most victims are male (74 %) (see Figure 3.4). The harm inflicted on victims is also gender-specific, with for example victims of sexual exploitation suffering from specific gynaecological and psychological damage. In the case of child exploitation, Europol data (2017) indicates that male victims accounted for 40 % of all victims, while females accounted for 60 %.⁶⁰

In respect to forced criminality, partial data from some Member States indicates that this form of trafficking is dominated by male victims.⁶¹ On the other hand, the type of criminal activities into

⁵⁷ S. Walby, B. Apitzsch, J.E. Armstrong, S. Balderston, K. Szmagańska-Follis, B.J. Francis, L. Kelly, C.A. May-Chahal, A. Rashid, K. Shire, J. Towers and M. Tunte, [Study on the gender dimension of trafficking in human beings](#), 2016, pp.21-22.

⁵⁸ Ibid, p.62.

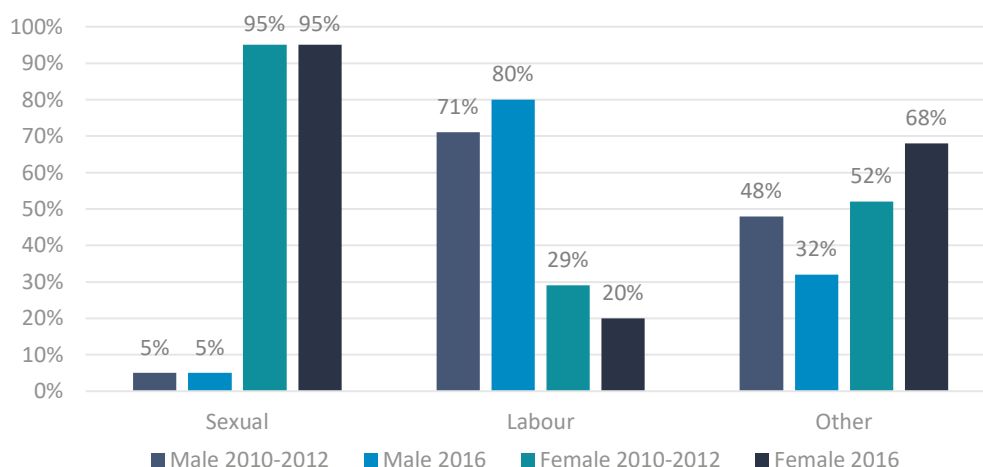
⁵⁹ GRETA [Evaluation Report. Cyprus. Third Evaluation Round. Access to justice and effective remedies for victims of trafficking in human beings](#), 2019.

⁶⁰ Europol, [Criminal Networks Involved in the Trafficking and Exploitation of Underage Victims in the EU](#), 2018.

⁶¹ See for instance information on France in A. Sourd and A. Vacher, [La traite des êtres humains en France: Profil des victimes suivies par les associations en 2018](#), 2019, p.11.

which victims are forced may also be 'gendered'. For instance, while drug-related crimes may be male dominated,⁶² pickpocketing may be female dominated.⁶³

Figure 3.4 – Trends in gender dimension (2010-2012 vs. 2016)



Source: European Commission, 2016

3.1.5. Trends in the modus operandi

The modus operandi of criminal groups operating in the European Union has been detailed in several Europol⁶⁴ and Member State reports. The modus differs according to the type of exploitation and nationality of traffickers. The modus has generally remained stable since 2011⁶⁵ with several of notable exceptions: the role of the 2014-2016 migration crisis and the growing role of internet-based technologies. The criminal networks, formed primarily of Nigerian nationals, and exploiting victims of the same nationality continue to dominate THB for sexual exploitation landscape in a number of Member States (e.g. FR, BE, NL, DE). In addition, intra-EU poli-criminal networks exploit ethnic Roma, primarily from Bulgaria and Romania for a range of activities from sexual exploitation, forced labour, forced criminality and begging (e.g. DE, FR, EL, BE, IE, PL).

Use of modern technology

Europol reports that criminal groups involved in trafficking are achieving increasing sophistication, functioning as corporate businesses, investing in 'marketing' and provision of 'services', extensively relying on Internet.⁶⁶ Such trends were already observed in 2011⁶⁷, but it is the scale and types of technologies used that have changed. Antonopoulos et al. (2020)⁶⁸ have argued that even though many international actors (i.e., Europol, or Interpol) and criminologists have raised an alarm that internet and social media have become increasingly used in human trafficking, the scale of the phenomenon is poorly understood. Modern technologies facilitate THB in all stages of human trafficking.⁶⁹

⁶² OFPRA, [Viet Nam: La migration et la traite a des fins d'exploitation par le travail vers le Royaume Uni et la France](#), 2019, pp.10-14.

⁶³ CSD, [Child Trafficking Among Vulnerable Roma Communities, Policy Brief No.54](#), 2015, p.10.

⁶⁴ Europol, [Criminal Networks Involved in the Trafficking and Exploitation of Underage Victims in the European Union](#), 2018.

⁶⁵ Europol, [Organised Crime Threat Assessment](#), 2011, pp.23-27.

⁶⁶ Europol, [Situational Report on Trafficking in Human Beings](#), 2016, p.13.

⁶⁷ Europol, [Organised Crime Threat Assessment](#), 2011.

⁶⁸ G.A. Antonopoulos, G. Baratto, A. Di Nicola, P. Diba, E. Martini, G. Papanicolaou, F. Terenghi, [Technology in Human Smuggling and Trafficking](#), 2020.

⁶⁹ Ibid.

The present research also confirmed these concerns. Even though the use of technologies in some of forms of exploitation has remained limited or not used at all (e.g. forced begging or criminality⁷⁰), in the case of THB for sexual or labour exploitation, country reports indicated the increased role of the internet and communication technologies:⁷¹

- Victim recruitment: recruitment via job ads especially for labour exploitation, or via dating sites or social media for sexual exploitation; personal information available on social media or websites facilitate the identification of potential victims;
- Smuggling of victims: advertising of transportation of victims;
- Exploitation: facilitation of finding customers and sale of sex services. Europol also concurs that the online advertisement of sexual services is an increasing phenomenon, with children being advertised as adults⁷².

In some Member States, these trends have developed even further. Online tools also used for controlling the victim via online video surveillance of apartments and workplaces as well as mobile phone geolocation services (AT, BG). Victims are being threatened with publication of nude images online or denouncing posts in various sites, chat forums and social media platforms. Revenues are being transferred using Bitcoin, prepaid credit cards and other virtual means of payment⁷³.

Human smuggling and trafficking

The links between smuggling of migrants and trafficking in human beings have been quite strong, even though both phenomena differ in important ways (see Box 3.2). Europol acknowledges that the data is insufficient to assess the scale of poly-criminality of organised criminals groups (OCGs) involved in migrant smuggling. Several OCGs are described as poly-criminal and are involved in multiple crimes, including smuggling of migrants, THB, and trafficking of drugs. More specifically, criminal groups may use fraudulent documents to smuggle migrants with the intent for labour exploitation. Further on, migrants may be forced into criminal exploitation either in the production, transportation, or sale of drugs.⁷⁴

Box 3.2 – Human Smuggling and Trafficking⁷⁵

There are five important ways in which human smuggling and trafficking differentiate:

- Consent: The migrant typically migrates and uses the services of organised crime on their own will, while victims of trafficking are under threat, deception, of abuse of position of vulnerability.
- Purpose of crime: Exploitation of victims vs. facilitation of illegal entry.
- Transnationality: Migrant smuggling is by definition trans-border, while trafficking may be domestic as well as trans-border.
- Source of criminal profits: In smuggling, the criminals are paid to provide a service, while traffickers exploit victims, who provide the service.
- Crime against or whom: Migrant smuggling affects state's sovereignty, while trafficking – individual freedom and rights.

⁷⁰ See country reports on LT and BG.

⁷¹ See Country reports on AT, ES, FR, DE, EL, IE, IT, SE, SK.

⁷² Europol, [Criminal Networks Involved in the Trafficking and Exploitation of Underage Victims in the European Union](#), 2018.

⁷³ Federal Ministry of the Interior (BMI), Federal Criminal Investigation Service, [Situation Report human trafficking and trans-border prostitution trade for 2017](#), 2017.

⁷⁵ UNODC, [Global Study on Human Smuggling](#), 2018.

One of the effects of the migration crisis reported by Member States is the changes in trafficking routes, where smuggling of victims via air travel, has now been substituted with smuggling via sea-routes and the deliberate mixing of victims with asylum flows (FR, NL). While most countries identified links between the major migration flows towards the EU (e.g. via the Eastern and the Central Mediterranean Route), some Member States also identified victims amongst both regular and irregular migrants from Central Asia or Vietnam via the EU external eastern land borders (LV). In some Member States, country reports show that authorities have not identified a strong link between the two phenomena or changes in trends (MT, CZ, ET, RO, PT, SI, SK).

3.2. Conclusions and recommendations

The general situation of THB in the EU has gradually evolved since 2014. However, the scale of the phenomenon has remained largely unchanged. The migration crisis has further facilitated the recruitment and transportation of victims of trafficking. At the same time, other forms of trafficking, including criminal exploitation, sham marriages and forced begging have been increasingly detected. The mass use of new technologies has facilitated the recruitment and exploitation of victims of trafficking, while at the same time making efforts to counter THB more challenging.

⁷⁵ UNODC, [Global Study on Human Smuggling](#), 2018.

4. Prevention and protection

Key findings

Research shows that Member States have been making efforts to comply with the prevention-related clauses of Directive with varying levels of success. Data is not always available to certify what progress has been made, including in relation to gender and migration. The number of Member States criminalising the use of services of victims of trafficking (VoT) with the knowledge that the providers are victims is growing since the adoption of the Directive in 2011, though explicit legislation is lacking in some cases, and other legal provisions are used to punish perpetrators. There is limited data available on prosecutions and convictions. Measures to enhance cooperation with the private sector in order to reduce demand for trafficked labour have increasingly been taken by Member States, especially in countries of destination of victims of trafficking, but overall, companies (and governments in countries of origin of VoT) need to invest more. A growing number and types of trainings for professionals who encounter victims are reported both at EU and Member State level but there is lack of data as to their effectiveness. Consistent funding is also an issue. While Member States do provide protection and services for vulnerable groups who are VoT, including disabled and children, problems persist. Additionally, the internet is increasingly recognised as a means for traffickers to recruit and control victims but can also be used as an avenue for governments to combat trafficking.

Chapter 4 focuses on the second research area 'prevention of trafficking across Member States and at EU level and protection of victims'. Having presented the general situation in Chapter 3, specified research areas are presented through the context and relevance which are first briefly described. The aim of this chapter is to summarise the four main aspects of prevention of trafficking and protection of victims of THB in terms of reducing demand, raising awareness, training of officials and criminalising the use of services. This is achieved through research on:

- The reduction of demand in terms of criminalisation of purchase of sex from THB victims (4.2.1);
- The level of cooperation of the private sector in the reduction of demand for labour exploitation (4.2.2);
- The level of training to aid, support and protect right of victims (4.2.3);
- The level of adequate protection, assistance and support to special groups (4.2.4);
- Online platforms and social media (4.2.5).

The present section on THB prevention and victim protection is based on desk research, relying on EU and Member State-level sources: EU Anti-Trafficking Coordinator (ATC), National Rapporteurs and/or Equivalent Mechanisms on trafficking human beings (NREMs), European Police Office (Europol), Statistical Office of the EU (Eurostat), national statistics, reports by national anti-trafficking coordinators, but also Group of Experts on Action against Trafficking in Human Beings (GRETA), Organization for Security and Co-operation in Europe (OSCE), United Nations Office on Drugs and Crime (UNODC), International Centre for Migration Policy Development (ICMPD) and civil society organisations and cross-checked with EU Member States interviews.

4.1. Context

The objective of the Anti-Trafficking Directive, as defined in Article 1, is to strengthen the prevention of THB and protection of victims of this crime, while considering the gender perspective. Prevention measures may focus on the users, aiming to reduce demand for services provided by trafficked persons, or on victims, aiming to make them aware of the threats and risks posed by various trafficking schemes. Prevention actions envisioned in the EU Strategy towards the Eradication of

Trafficking in Human Beings 2012–2016⁷⁶ include understanding and reducing demand for all forms of trafficking, cooperation with the private sector to develop supply chains that do not involve THB and implementation of awareness raising programmes. The protection of victims is a complex process requiring identification of the specific needs of victims, including consideration of their age, gender, health condition, type of trafficking, status in the host country, etc. In addition to the Anti-Trafficking Directive, the Victims' Rights Directive⁷⁷ further elaborates the support and assistance to which victims of crime, including victims of trafficking, are entitled.

What is in the Directive

The concept of prevention is addressed in Article 18. The Article emphasises the need to: 1) discourage and reduce the demand that fosters all forms of exploitation related to THB; 2) raise awareness and reduce the risk of people, especially women and children, becoming victims of THB; 3) train officials who come in contact with victims or potential victims of THB; and 4) encourage Member States to establish as a criminal offence the use of services when users are aware that the services are provided by victims of THB.

This issue of assistance and support to victims are defined in Article 11. The Article describes the assistance for victims with special needs, such as pregnancy, health issues, disabilities, and mental or psychological disorders. The general rules for the protection of victims in criminal investigation and proceedings are defined in Article 12, and it includes measures to prevent secondary victimisation. Special measures are defined for children and unaccompanied minors (Articles 13-16). Meanwhile, Article 17 stipulates that victims of THB should have access to existing schemes of compensation to victims of violent crimes of intent.

Relevance in the context of migration

While THB and migration are two distinct yet linked processes, mixed migration flows have been increasingly used by traffickers.⁷⁸ A critical role in the prevention and protection of victims can be played by border control, migration, and visa issuing authorities. In its follow-up report to the 2012-2016 Strategy, the European Commission recognised the need to improve cooperation by EU border and migration authorities in detecting, identifying and sharing information and data on victims of trafficking and traffickers.⁷⁹ In addition, children and unaccompanied minors are often part of the mixed migration flows and may be victims of trafficking for labour exploitation and begging or for other purposes.⁸⁰ Cooperation with countries of origin of trafficked persons through awareness campaigns, capacity building initiatives and economic aid can also contribute to the prevention of THB.

Relevance in the gender context

In its follow-up report to the 2012-2016 Strategy, the European Commission noted that THB 'has an obvious gender dimension. Trafficking for sexual exploitation, involving mainly women and girls as victims, is consistently reported as the prevalent form.'⁸¹ In recognition of the gender dimension of prevention and protection of victims of THB, the report recommended the development, in cooperation with the European Institute for Gender Equality, of a guidance⁸² to Member States on

⁷⁶ [COM\(2012\) 286 final](#).

⁷⁷ [Directive 2012/29/EU](#) of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA.

⁷⁸ ICMPD, [Trafficking along Migration Routes to Europe: Bridging the Gap between Migration, Asylum and Anti-Trafficking](#), 2018.

⁷⁹ [COM\(2017\) 728 final](#).

⁸⁰ There is a scarcity of data on the relative numbers or even estimates of these victims at this point.

⁸¹ European Commission, [COM\(2017\) 728 final](#).

⁸² The guidance can be accessed [here](#).

gender-specific measures for helping and supporting victims. The detailed guidance, containing an assessment, recommendations and a list of indicators, was published in 2018.

A report by the EIGE pointed out that 'the gendered nature of trafficking for sexual exploitation and/or forced marriage ... place these crimes within the wider continuum of gender-based violence and violence against women which require a gender sensitive response.'⁸³ A recent study by the EPRS noted that 'in the context of mixed migration flows, women and children are especially likely to fall victim to traffickers. They can end up being trafficked and exploited through document confiscation, threats of violence towards family members, psychological control, forced confinement and debt bondage to those who arranged their passage.'⁸⁴

It should be mentioned that the gender dimension of THB requires a gender-specific approach to both women and men. Men make up a significant share of victims of trafficking for non-sexual exploitation, and they also need support and protection in cases where THB is combined with irregular migration.⁸⁵ In regard to trafficking for sexual exploitation, men are the target group for prevention measures which may include both awareness campaigns and prosecution for knowingly using the services of women victims of trafficking.

According to the UNODC, '[e]fforts to deter traffickers by addressing the root causes that led them to become traffickers go hand in hand with the deterrent impact of criminal justice efforts. Victim assistance efforts to break the cycle of trafficking must be directed both at preventing victims from being re-trafficked and also at preventing victims from becoming traffickers. And all of these responses must be considered for the data collection opportunities they provide—the more that is learned about traffickers and their methods, the more that efforts to prevent trafficking can be meaningfully targeted. In short, prevention of trafficking is interlinked with all other responses to trafficking and therefore must be undertaken in a concerted, holistic way which acknowledges the complexity of trafficking in persons.'⁸⁶

Looking at Europe and the EU's Directive, a significant aspect of the prevention of THB is the reduction of demand through criminalising the use of services provided by victims of THB, in particular victims of sexual exploitation. While Member States have made progress in this respect, the European Commission noted in its second progress report on the implementation of the Anti-Trafficking Directive that it 'continues to encourage Member States which have not yet done so to proceed to the criminalisation of those who knowingly use services provided by victims of trafficking.'⁸⁷ At the same time, civil society organisations point out that the mere adoption of provisions criminalising the use of services provided by victims of THB is not always accompanied by enforcing of these provisions. The 2016 implementation assessment by EPRS concluded that Member States have different approaches to the issue of criminalisation of the purchase of sex and no consensus on the issue has been reached.⁸⁸

⁸³ European Institute for Gender Equality (EIGE), [Protecting Victims: An Analysis of the Anti-Trafficking Directive from the Perspective of a Victim of Gender-Based Violence](#), 2017.

⁸⁴ A. Scherrer, [Detecting and protecting victims of trafficking in hotspots: Ex-Post Evaluation](#), EPRS, 2019.

⁸⁵ According to the EC's Directorate General Migration and Home Affairs, an irregular migrant is: 'In the global context, a person who, owing to irregular entry, breach of a condition of entry or the expiry of their legal basis for entering and residing, lacks legal status in a transit or host country. In the EU context, a third-country national present on the territory of a Schengen State who does not fulfil, or no longer fulfils, the conditions of entry as set out in the Regulation (EU) 2016/399 (Schengen Borders Code) or other conditions for entry, stay or residence in that EU Member State.'

⁸⁶ UNODC, [Toolkit to Combat Trafficking in Persons](#), 2008 p.449.

⁸⁷ [SWD\(2018\) 473 final](#).

⁸⁸ A. Scherrer and H. Werner, [Trafficking in Human Beings from a Gender Perspective: Directive 2011/36/EU: European Implementation Assessment](#), EPRS, 2016.

Effective prevention and protection measures must be based on consistent and reliable data. However, various studies have noted that THB remains an under-reported crime, and the actual number of victims is 'significantly higher than those made visible by official counting methods.'⁸⁹ One of the reasons for under-reporting is that victims 'may not have an adequate understanding of the concept of this crime and hence the protection they are entitled to.'⁹⁰

Scope

The Directive specifies four main aspects of prevention which should be the object of Member States' efforts: reducing demand, raising awareness, training of officials, and criminalising the use of services of victims. It also highlights four elements of victim protection which Member States should strive to improve: paying special attention to victims with special needs, protection during investigation, paying attention to children and unaccompanied minors and compensation of victims.

The intersection of these eight areas with the two horizontal foci of this study (migration and gender perspective) results in the following issues which the research should potentially try to cover: criminalisation of the use of services of victims (both of sexual and labour exploitation) in order to reduce demand, including cooperation with the private sector, as regards THB for labour exploitation; training of officials, including those on the first line (i.e., border and migration & police) and those conducting the investigations, on the rights of victims, especially women, children and migrants; addressing online recruitment, especially women for sexual exploitation; identification and support of victims: women, third-country nationals (TCNs) and unaccompanied minors (UAMs). We have chosen to leave compensation out, as this element bears no direct link to migration and gender perspective – in most Member States victims are equally entitled to compensation.⁹¹ Awareness-raising is an important element of prevention, but its effectiveness is not easily measurable and very few Member States collect such data. Thus, we have compiled the following set of areas of interest:

- 1: What progress has been made in the reduction of demand in terms of criminalisation of purchase of sex from victims of THB? Have there been any investigations and convictions? What obstacles and challenges have been encountered?
- 2: What progress has been made in enhancing the cooperation of the private sector in the reduction of demand for services provided by victims of trafficking for labour exploitation? What were the obstacles and challenges encountered by each Member States? What best practices have been established?
- 3: Are officials who encounter victims of trafficking adequately trained to aid and support and to protect the rights of victims, including to avoid secondary victimisation and provide referral to general and specialised victim services? What specific measures have been implemented regarding women and migrant victims of trafficking?
- 4: Have adequate protection, assistance and support been provided to: (i) women and girls with physical and developmental disabilities, and (ii) children, including migrant children and unaccompanied minors, who are victims of THB? Have sufficient resources (financial and human) been allocated?

⁸⁹ European Commission, [Data collection on trafficking in human beings in the EU](#), 2018.

⁹⁰ A. Scherrer, [Detecting and protecting victims of trafficking in hotspots: Ex-Post Evaluation](#), EPRS, 2019.

⁹¹ As stated in the Commission's [Second Progress Report](#) (p.63-65), compensation for victims may be problematic *per se* across EU Member States, and more needs to be done in terms of enforcement and actual payments. As regards migration, only one Member State (Poland) reported that a legal amendment envisaged 'paying compensation to victims, if the offence has been committed in the territory of the Republic of Poland to the detriment of a natural person, irrespective of their nationality. The only prerequisite is the place of permanent residence in the territory of the Republic of Poland or another EU Member State.' (p.64). On the other hand, as most victims of trafficking in the EU are women (victims of sexual exploitation), it may be inferred that difficulties with compensation in general affect women more than they affect men (given the trends are preserved). This may be the object of further research.

- 5: What measures have been taken to address the increasing use of online platforms and social media by both traffickers and victims?

4.2. Research findings

4.2.1. Reduction of demand (criminalisation)

According to the Directive, but also policy documents such as the Strategy and the follow-up Communication, one of the key elements of prevention which Member States are urged to implement is the criminalisation of knowingly using the services of victims of trafficking. The progress of Member States in this respect can be traced by comparing the number of those who have criminalised, or partially criminalised, this use over the years after the enactment of the Directive. The European Commission's First Progress Report on THB (2016), covering the period 2013-14, states that 'approximately half of Member States treat the use of services provided by victims of trafficking in the knowledge that they are trafficked as a criminal offence,'⁹² without further elaboration.

In 2016, the European Commission stated in a special report on the implementation of Article 23(2) of the Directive and related to Article 18 that 'there are ten (10) Member States that have established as a criminal offence the use of services which are the objects of all forms of exploitation of victims of trafficking in human beings, and fifteen (15) Member States having established only a limited and selective criminalisation for the use of services of victims of trafficking in human beings.'⁹³ The European Commission's Second Progress Report on human trafficking was published in 2018, covering the period 2015-17. It quotes the findings of the special report of 2016 but also cites four new Member States who have introduced legislation relevant to Article 18 of the Directive.⁹⁴

The 2016 report additionally addressed the diversity of the legal environment across the EU. The report notes that every system has its own way of addressing the criminality of knowingly using services of victims of trafficking. For example, in some Member States, other legal provisions are used to punish users for sexual exploitation despite the lack of specific texts, as is the case in Italy, while in other Member States, such as France and Sweden, all users of sexual services are regarded as criminal, regardless of the profile of the service provider (i.e., whether they are a victim of trafficking or not; see Table 4.1 below).

The Council of Europe's Group of Experts on Action against Trafficking in Human Beings (GRETA) also issues annual reports on State Parties' compliance with the corresponding CoE Convention on Action against Trafficking in Human Beings. The 9th General Report for 2019 takes stock of the findings of GRETA's 2nd evaluation round of State Parties which took place in the period 2014-19. It states that while many States established as a separate criminal offence knowingly using the services of a trafficking victim, some had criminalised solely knowingly using the sexual services of a victim. Other States had other legal provisions which could be used to penalise the users of services of victims of trafficking: 'e.g., criminalisation of the purchase of sexual services [in general]; employing an irregularly residing foreigner who is a victim of trafficking; intentionally profiting from the exploitation of another person; illegally employing or exploiting foreign workers; liability of

⁹² European Commission, [Report on the progress made in the fight against trafficking in human beings](#), 2016, p.13.

⁹³ European Commission, [Report assessing the impact of existing national law, establishing as a criminal offence the use of services which are the objects of exploitation of trafficking in human beings, on the prevention of trafficking in human beings, in accordance with Article 23 \(2\) of the Directive 2011/36/EU](#), 2016, p.3.

⁹⁴ European Commission, [Second report on the progress made in the fight against trafficking in human beings \(2018\) as required under Article 20 of Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims](#), 2018, p.29.

contractors; requiring a person to perform forced or compulsory labour while knowing that the person concerned is being required to do so.¹⁹⁵

A cross-reference of the data from the two European Commission reports and the GRETA report (where only EU Member States were considered) shows that 10 EU Member States have criminalised the knowing use of services provided by trafficked victims of all forms of exploitation; 5 Member States have only criminalised the use of sexual services offered by Victims of Trafficking (VoT); and 12 Member States have enacted other legislation that can be used to punish users of services of VoT but in a limited manner. Two Member States have not reported relevant legislation. The cross-country differences in legislation are presented in Table 4.1.

Table 4.1 – Legislation on criminalisation of the knowing use of services of victims of trafficking and statistics on prosecutions and convictions (where available).

Member States	Legislation	Stats	Member States	Legislation	Stats	Member States	Legislation	Stats
AT	√ (app)		FR	√ (app)		MT	√	
BE	√ (app)	√	DE	√ (s; app)		NL	√ (app)	
BG	√	√	EL	√		PL	√ (app)	
HR	√		HU	X		PT	√	
CY	√		IE	√ (s; app)		RO	√	√
CZ	√ (app)		IT	√ (app)	√	SK	X	
DK	√ (app)		LT	√		SI	√	√
EE	√ (s)		LI	√	√	ES	√ (app)	
FI	√ (s)	√	LUX	√ (s)		SE	√ (app)	

√ - use of services with the knowledge of providers being victims of all forms of trafficking is criminalised; √ (s) – use of sexual services with the knowledge of providers being victims of trafficking; √ (app) – other legal provisions available which can be applied to those knowingly using the services of victims of some form of trafficking; X – no relevant legal provisions reported. (Sources: European Commission 2016, 2018; GRETA 2020)

A good indicator for the successful implementation of the Directive and consequently, the successful prevention and reduction of demand would be the number of prosecutions and sentences in Member States of knowing users of services of VoT. Unfortunately, as noted earlier, the availability of such data across the EU is problematic. According to the data collection effort accompanying the European Commission's Second Progress Report on THB, '[t]here were reports of two (2) 'suspects' (persons brought into formal contact with the authorities – suspected, arrested, or cautioned), 135 prosecutions, and 18 convictions in the EU28 during 2015-2016 concerning the use of services which are the objects of trafficking in human beings. Five (5) Member States provided data on this matter, while twenty-three (23) did not. Three Member States reported numbers of suspects, prosecutions, and convictions for these offences: Italy, Romania, and Finland. Two Member States reported no suspects, prosecutions, or convictions: Lithuania, and Slovenia.¹⁹⁶ No comparative data were available to our knowledge. GRETA's 7th General Report mentions two EU Member States (i.e., BE, BG) which have reported convictions.¹⁹⁷ In terms of prosecutions and convictions of users of services, country research and interviews in Member States produced the following data: 1 conviction in AT; 5 'accused' and 2 'charged' in CY; 1 conviction for sexual intercourse with a minor in EL; and no convictions in either LT or SI.¹⁹⁸

¹⁹⁵ Council of Europe, [9th General Report on GRETA's Activities](#), 2020, p.48.

¹⁹⁶ European Commission, [Data collection on trafficking in human beings in the EU](#), 2018, pp.102-103.

¹⁹⁷ Council of Europe, [7th General Report on GRETA's Activities](#), 2018, p.58.

¹⁹⁸ Country reports for AT, CY, EL, LT and SI.

Several important conclusions can be made about criminalisation of knowingly using the services of VoT and reducing demand from desk research and interviews. First, the application of the relevant provision in the criminal code, and hence prosecution and conviction of clients, in jurisdictions with full compliance with the Directive is problematic and rarely done. One cited reason is that proving knowledge in using the services of a VoT is extremely difficult (e.g., BG, CY); in some cases, other provisions in the criminal code are used (e.g., ones linked to debauchery (BG)). Another reason is that law enforcement has insufficient knowledge of the relevant provision and judicial practice is scarce (e.g., BG), or law enforcement has inadequate human resources (e.g., FI). A third reason is that in some Member States, law enforcement agencies tend to punish providers of services rather than users, a reflection of discriminating attitude in the society (e.g., LI, LT).⁹⁹

Another important conclusion is that legalised prostitution may prove counterproductive in reducing demand. CSOs in some jurisdictions point to increased demand and cite Europol as describing markets with legal prostitution as easier to access for traffickers (AT). Other Members States with legalised prostitution point to difficulties such as non-implementation of legislation protecting providers of services, lack of registration of users in brothels and lack of awareness of trafficking and exploitation among users and providers (e.g., DE). And still others focus on prosecuting the use of services of underage prostitutes (e.g., NL). On the other hand, Austria believes that legally using sex services is the better option for combating THB, while Belgium says criminalisation would discourage some users of services to report abuse over providers.¹⁰⁰

A third conclusion that can be drawn is that it is not clear whether the criminalisation of the use of sex services in general leads to positive results vis-à-vis human trafficking. While Sweden, a pioneer in introducing such legislation, insists it has been effective, there is concern in Ireland that criminalisation has had a negative effect on identification of VoT.¹⁰¹

The fourth conclusion is that in many Members States, both countries of origin and destination of VoT mention awareness-raising campaigns targeting potential users as an important instrument for reducing demand (BG, CY, DE, EE, EL, ES, HR, IE, IT, NL, PT, RO, SI, SE).¹⁰²

In regard to the migration and gender dimensions, some of the non-specific legislation which some Member States use to prosecute users pertains solely to victims of sexual exploitation (i.e., DE, EE, FI, IE, LX), where the majority of the victims are women. Other legislation used to punish users concerns third-country nationals and their employment in the EU (e.g., HU & PL). In this light, the exploitation of women and migrants may be regarded as being addressed, even if no explicit legislation according to Article 18 exists in the respective Member State.

In summary, Member States have addressed demand for human trafficking through criminalisation of knowingly using the services of victims with mixed success. Many Member States have introduced explicit provisions in their criminal codes, while others use alternative provisions to prosecute. However, even where legislation is fully in compliance with the Directive, it is rarely applied or fully enforced because of difficulties in proving knowledge and lack of judicial practice. Many Member States use alternative provisions to pursue users, and in general prosecution and conviction levels are low. Legalised prostitution may be a problem, even leading to higher demand. Meanwhile, awareness-raising campaigns are held not only in countries of destination but also in countries of origin of victims of trafficking.

⁹⁹ Country reports for BG, CY, FI, LI, LT

¹⁰⁰ Country reports for AT, BE, DE, NL.

¹⁰¹ Country reports for IE, SE.

¹⁰² Country reports for BG, CY, DE, EE, EL, ES, HR, IE, IT, NL, PT, RO, SE, SI

4.2.2. Cooperation of the private sector

Enhancing the cooperation of the private sector is another element of the efforts aimed at prevention and reducing the demand for services of VoT, specifically victims of labour exploitation. Businesses have an important role to play in the process, along with governments and consumers.¹⁰³ Businesses may be knowingly using services of trafficked persons, as this reduces labour costs and the value of their end products or services; in this case, explicit exploitation is present. But many, usually larger companies, may be unconsciously complicit in exploitation by purchasing goods and services from unscrupulous suppliers along their supply chains. Also, often third parties, or recruiting agencies and labour brokers, are actually the main exploiters of workers (by holding them in debt or depriving them of a large share of their wages) without the knowledge of the employer.¹⁰⁴ According to the Inter-Agency Coordination Group against Trafficking in Persons (ICAT), 'challenges to greater business action against forced labour and trafficking in persons remain in three respects: the commitment of companies to address issues in their supply chains; their ability to address such issues; and the extent to which the problem will not simply be displaced.'¹⁰⁵ Overall, various private sector initiatives exist. However, more consistent and independent monitoring systems are still required, particularly at the lower parts of the supply chain.

'Given the complexity of supply chains, some businesses question the extent to which they can realistically, actively identify issues down to the bottom of the supply chain. However, the bargaining power of companies at the top of the supply chain should not be underestimated. There are already examples where companies have simply refused to buy from suppliers who cannot substantiate the origins of their components, a powerful incentive to the supplier to improve transparency.'¹⁰⁶ Some recommended steps for businesses include independent supply chain audits, improving purchasing practices, strengthening mechanisms to detect abuse and exploitation, regular labour rights monitoring and scrutinising recruitment agencies.¹⁰⁷

In the context of the EU and the Directive, it should be noted that the environment for cooperation of the private sector in prevention and reducing demand for labour exploitation is different across Member States. The main line of distinction appears to be whether the Member State in question is a country of destination for victims of trafficking or a country of origin. It is generally the case that lower-income Eastern European Member States are countries of origin, while Western European Member States are destinations for THB due to the attractiveness of salaries and higher standard of living. Thus, matters such as trafficked labour, supply-chain transparency, cooperation agreements and internal company ethical rules are more likely to be a concern for the private sector and governments in countries of destination than in countries of origin of THB for labour exploitation, which is visible in GRETA's 7th General Report and the examples it lists.¹⁰⁸

The European Commission's Second Progress Report on THB takes stock of actions taken by Member States in the field of due diligence and responsibility of legal persons in the trafficking chain, as an important element in the prevention of THB and addressing the culture of impunity. Eleven Member States report general measures in this field or specific cooperation initiatives with the private sector (e.g., BE, FI, FR, DE, EL, IE, IT, NL, PL, PT, ES).¹⁰⁹ Some Member States (NL, SE) refer to applicable

¹⁰³ See for example Global Business Coalition against Human Trafficking ([GBCAT](#)).

¹⁰⁴ ICAT, [Preventing Trafficking in Persons by Addressing Demand: ICAT Paper Series, Issue 2, September 2014, 2014](#); S. Hoff and K. McGuarn, [Engaging the Private Sector to End Human Trafficking: A Resource Guide for NGOs: SOMO and La Strada International](#), 2015.

¹⁰⁵ ICAT, [Preventing Trafficking in Persons by Addressing Demand: ICAT Paper Series, Issue 2, September 2014, 2014](#), p.19.

¹⁰⁶ ICAT, [Preventing Trafficking in Persons by Addressing Demand: ICAT Paper Series, Issue 2, September 2014, 2014](#), p.19.

¹⁰⁷ ICAT, SOMO and La Strada International.

¹⁰⁸ Council of Europe, [7th General Report on GRETA's Activities](#), 2018, pp.55-59.

¹⁰⁹ European Commission, [Second report on the progress made in the fight against trafficking in human beings \(2018\) as required under Article 20 of Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims](#), 2018, p.49.

domestic, EU or other international law which regulates or encourages cooperation with or accountability of businesses in public procurement or in at-risk sectors (e.g., EU Public Procurement Law & OECD's Guidelines for Multinational Enterprises). Other Member States mention measures they have included in their annual action plans in relevant areas (e.g., anti-THB and procurement). One Member State (IT) reports a signed memorandum of understanding with a specific business association, while two others (DK, FI) cite publishing of concrete guidelines for action for companies.¹¹⁰

It is worth noting that implementation of other relevant EU law, sometimes cited by Member States, also contributes to increasing the cooperation of the private sector in preventing human trafficking (e.g., the already mentioned EU Procurement Law, but also Directive 2009/52/EC providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals). One such regulation is comparatively new and relevant in the context of businesses, human rights, and human trafficking: Directive 2014/95/EU, or the Non-Financial Reporting Directive for companies. The Directive calls for large public-interest companies of 500 or more employees to provide information 'on the policies they implement in relation to environmental protection, social responsibility and treatment of employees, respect for human rights, anti-corruption and bribery, and diversity on company boards (in terms of age, gender, educational and professional background).'¹¹¹ An independent study of the application of this directive, however, after one year of reporting, finds that 'the general trend remains clear: companies are seriously struggling with human rights due diligence disclosure.'¹¹²

The Council of Europe's GRETA, in its 7th General Report, takes a detailed look at human trafficking for the purpose of labour exploitation across the CoE region, and specifically at measures undertaken by State Parties to discourage demand via public-private partnerships. The report states that 'initiatives to prevent trafficking for labour exploitation involving the business community are increasingly reported by State Parties'¹¹³ and lists numerous examples, all of which are from EU Member States (see Annex 4A for a list of examples of good practices).

A cross-reference of the data of the European Commission and GRETA report shows that 13 EU Member States have undertaken measures to enhance cooperation with the private sector in preventing THB for labour exploitation (Table 4.2).

Table 4.2: Measures undertaken by Member States on cooperation with businesses and cooperation agreements.

Member States	Measures	Coop Agrmt	Member States	Measures	Coop Agrmt	Member States	Measures	Coop Agrmt
AT			FR	√ (L)		MT		
BE	√ (L)		DE	√		NL	√ (L)	
BG			GR	√		PL	√	
HR			HU			PT	√	
CY			IRL	√		RO		

¹¹⁰ Ibid, p.50.

¹¹¹ European Commission, [Second report on the progress made in the fight against trafficking in human beings \(2018\) as required under Article 20 of Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims](#), 2018, p.51.

¹¹² European Coalition for Corporate Justice, [A Human Rights Review of the EU Non-Financial Reporting Directive](#), 2019, p.23.

¹¹³ Council of Europe, [7th General Report on GRETA's Activities](#), 2018, p.57.

CZ			IT	√	√	SK		
DK	√		LT			SLO		
EE			LI			ES	√	
FI	√		LUX			SE	√ (L)	

√ - some form of measures exists, either general or specifically on cooperation with the private sector; √ (L) – relevant legislation exists, Source: European Commission, GRETA.

According to country research and interviews held in Member States for the purpose of this study, there are relatively few Member States that have established active cooperation with businesses aiming at reducing demand (AT, BE, EE, NL, PT), and relatively few for which little or no cooperation was reported (CY, FI, DE, HU, LI, SK); the rest have demonstrated some efforts and have some level of cooperation.

The most cited positive aspects include specific legislation on obligations and reporting by the private sector (AT, BE, FI), inclusion of business cooperation in national action plans (IT, LX, MT, PL, PT, SI), labour inspections conducted (ES, HR, CZ, SK), common projects, conferences or trainings (AT, BG, HR, DK, EE, IE, LT, PT, SI), codes of conduct signed (PT, SI), certificates for ethical business awarded (EL, PT), and awareness-raising and dissemination of manuals, guides or brochures among stakeholders (BE, DK, EE, IE, IT, LT, MT, NL, PT, RO). The most cited obstacles include lack of awareness among businesses of THB and exploitation practices or unwillingness to engage (BG, CY, CZ, EE, ES, FI, IT, MT, NL), lack of labour inspection capacity (DE, LX), lack of relevant legislation (EE, FI, NL, PL). Examples of best practices are new legislation on supply chains and exclusion of THB-linked subcontractors (AT), regular trainings for companies (EE) and inter-sectoral cooperation agreements (NL).¹¹⁴

Regarding the migration dimension, a relevant indicator would be to what extent Member States have endorsed the idea of opening legal avenues to their labour markets for third-country nationals to counter irregular immigration. This approach has gained in prominence in the aftermath of the migration and refugee crisis of 2015-16. One positive effect of more regularised migration would be a reduction of demand for illegal labour (including provided by trafficked persons). Indeed, businesses have a stake in employing migrant labour in countries where the markets are in strong need of workers and are already cooperating with governments for an easier access of those workers.¹¹⁵

With regards to regularisation, the relevant EU-level document is the so-called 'Return Directive' (2008/115/European Commission) from 2008 which defines common standards and procedures for returning illegally staying third-country nationals. However, a regularisation policy at EU level does not yet exist at the time of finalising this report. Some EU Member States implemented large-scale regularisation programmes. For example, Italy did so in 2002 and 2009, Spain in 2005, Belgium in 2009, and Poland in 2012.¹¹⁶ Since the early 2010s and against the backdrop of the migration crisis and wide-spread anti-immigration sentiments, regularisation initiatives have been stalled in the majority of the EU Member States.¹¹⁷

Recently, however, consequences of the Covid-19 pandemic, especially a lack of labour force in low-wage sectors and practical limitations hampering the dealings with undocumented immigrants,

¹¹⁴ Country reports for AT, BE, BG, CY, CZ, DE, DK, EE, ES, FI, HR, HU, IE, IT, LI, LT, LX, MT, NL, PL, PT, RO, SI, SK.

¹¹⁵ Even in less wealthy EU Member States, such as Bulgaria, which are predominantly countries of origin of victims of THB exploited in Western Europe, business associations lobby for migrant access to the labour market for lack of local workers. See: Bulgarian Chamber of Commerce and Industry (2018), [International Conference 'Labour Market Integration of Migrants'](#).

¹¹⁶ Our World/ C. McGovern, [EU Regularisation Programmes: An Effective Tool to Manage 'Irregular Migration'?](#) 2014.

¹¹⁷ EUobserver/ L. Bodeux and D. Gnes, [Undocumented workers are Covid-19 'elephant in room'](#), 2020.

have catapulted regularisation initiatives back on the agenda of some EU Member States. For example, in May 2020, Italy passed a law offering around 200,000 undocumented immigrants working in agriculture or as house-helpers or care-givers the chance to obtain a six-month residency permit.¹¹⁸ Between April and July 2020, Portugal granted undocumented immigrants the same rights as citizens. Subsequently, regular immigration processes are supposed to resume.¹¹⁹ For the duration of the Covid-19 crisis, Ireland has granted undocumented migrants full access to healthcare and social welfare.¹²⁰ Finally, in June 2020, Belgium announced plans to train undocumented immigrants in order to fill job vacancies in Brussels.¹²¹

Another avenue to legalise third-country nationals in the EU and thus reduce demand for trafficked labour is the signature of bilateral labour agreements. Some examples include: Bulgaria-Armenia (migrant labour, signed 2018),¹²² Bulgaria-Moldova (migrant labour, 2018)¹²³; Italy-Sri Lanka (migrant labour, signed 2011)¹²⁴, Italy-Moldova (migrant labour, signed 2011).¹²⁵

To sum up, an increasing number of Member States do attempt to cooperate with the private sector to combat THB, both in countries of destination and countries of origin (less so) for VoT. Some Member States have adopted relevant legislation, and the majority have some practical experience such as joint projects, workshops, and awareness-raising campaigns with the business. Some governments have signed agreements or initiated the signature of codes of ethics by companies, while others have awarded certificates of ethics. However, despite the various initiatives, one of the key problems is the lack of awareness among businesses of the problem of THB and exploitation along the supply chain, which calls for more efforts and engagement.

4.2.3. Training to support and protect victims of trafficking

Training of officials who are likely to encounter victims or potential victims of trafficking in human beings is a legal obligation of Member States as defined in the Anti-Trafficking Directive. The list of categories of public officials includes, but is not limited to, police officers, border guards, immigration officials, public prosecutors, lawyers, members of the judiciary and court officials, labour inspectors, and social, child and health care personnel and consular staff.¹²⁶ The European Commission's First Progress Report (2016) noted that in the context of the migration crisis, there was a need to provide appropriate training to frontline staff for the identification of victims of trafficking in the migration flows. The report also highlighted 'the lack of specialised training and a gender-specific and child-centred approach.'¹²⁷ The Second Progress Report (2018) observed that there was a 'lack of appropriate training and capacity building for all actors involved,'¹²⁸ and in particular officials who deal with children victims in mixed migration flows.

¹¹⁸ Open Migration/ A. Oleandri, [Regularisation of migrants. One step forward, but much more could be done](#), 2020.

¹¹⁹ Newsweek/ C. Da Silva, [Portugal's COVID-19 Strategy to Treat Immigrants Like Citizens Is Working](#), 2020.

¹²⁰ The New Humanitarian/ E. Reidy, [Coronavirus: A window of opportunity for action on migration?](#) 2020.

¹²¹ The Brussels Times, [Plan to train undocumented migrants in Brussels sparks opposition](#), 2020.

¹²² European Commission, [Agreement between Bulgaria and Armenia on regulation of labour migration](#), 2018.

¹²³ Eastern Partnership Migration Panel, [Bulgaria, Moldova signed agreement on the regulation of labour migration](#), 2018.

¹²⁴ Embassy of Sri Lanka, Rome, Italy. [Italy and Sri Lanka sign bilateral Agreement on Labour Migration](#).

¹²⁵ International Labour Organisation, [Agreement between the Government of Italy and the Government of Moldova in the Field of Labour Migration](#), 2011.

¹²⁶ [Directive 2011/36/EU](#), paragraph 25.

¹²⁷ European Commission, [Report on the progress made in the fight against trafficking in human beings](#), 2016, p.13.

¹²⁸ European Commission, [Second report on the progress made in the fight against trafficking in human beings \(2018\) as required under Article 20 of Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims](#), 2018, p. 9.

Monitoring and evaluation

GRETA's general and country reports¹²⁹ have highlighted certain issues with the protection of victims of trafficking which directly affect the capacity of officials to identify victims and address their needs:

- Admission to the victim assistance system: A concern was raised that 'the provision of assistance to victims of trafficking hinges on their co-operation with law enforcement authorities, even though the link does not exist formally.'¹³⁰ Trainings delivered to officials should instruct them that victims who are not ready or capable of cooperation with police or prosecution have the same rights of assistance as victims who cooperate.
- Identification of victims of trafficking in mixed migration flows: Migrants are particularly vulnerable to trafficking for both sexual and labour exploitation purposes.¹³¹ Border police and migration officers need to be trained to identify victims of trafficking who may also be asylum seekers. It was noted that in some detention zones, such as in Hungary, no efforts were made to screen migrants and asylum seekers for indicators of human trafficking.¹³² In other countries, irregular migrants and victims of trafficking were placed in the same facilities. Therefore, staff should be trained to recognise the specific needs of victims of trafficking, as opposed to irregular migrants or victims of domestic violence.¹³³
- Gender dimension of victim assistance: While support for women and girls who have been victims of trafficking for sexual exploitation have been prioritised in most Member States, GRETA notes that special attention needs to be paid to men and boys who become victims of trafficking for labour exploitation, as well as for women who become victims of trafficking for non-sexual exploitation.¹³⁴
- Personal liberty and privacy of victims: In some cases, personal liberty and privacy of victims have not been respected. GRETA also noted that staff working with victims of trafficking should respect the confidentiality of victims' personal data.¹³⁵

The provision of training is envisioned in the formalised or non-formalised National Referral Mechanisms of most Member States, as well as in their national anti-trafficking programmes and action plans. While the Second Progress Report found that measures to improve the identification, support and protection of victims have been undertaken by Member States, including training of officials, it also noted that limited information was available on the effectiveness and impact of these measures. The latest GRETA report also mentioned the need for regular evaluation of the relevance, effectiveness and reach of training programmes.¹³⁶ It is to be noted that a study on the functioning of National Referral Mechanisms, commissioned by DG HOME, may fill in some of the gaps in this area, but its findings are not available at the time of preparing this report.

¹²⁹ Council of Europe, [8th General Report on GRETA's Activities, focusing on provision of assistance to victims of human trafficking](#), 2019.

¹³⁰ Council of Europe, [8th General Report on GRETA's Activities, focusing on provision of assistance to victims of human trafficking](#), 2019, paragraph 102.

¹³¹ International Migration Organization, [Migrant Vulnerability to Human Trafficking and Exploitation: Evidence from the Central and Eastern Mediterranean Migration Routes](#), 2017; FRA, [Out of sight: migrant women exploited in domestic work](#), 2017.

¹³² Council of Europe, [8th General Report on GRETA's Activities, focusing on provision of assistance to victims of human trafficking](#), 2019, paragraphs 16-18.

¹³³ Ibid, paragraph 126.

¹³⁴ Ibid, paragraphs 111-114.

¹³⁵ Council of Europe, [8th General Report on GRETA's Activities, focusing on provision of assistance to victims of human trafficking](#), 2019, paragraph 120.

¹³⁶ Council of Europe, [9th General Report on GRETA's Activities](#), 2020, paragraph 96.

EU level

At the EU level, training of officials dealing with victims of trafficking is provided by CEPOL, Frontex, the European Judicial Training Network (EJTN) and other institutions. At the national level, trainings are usually coordinated by the NREMs and are performed by both government units and civil society organisations.

Between January 2017 and January 2020, CEPOL has carried out a total of 31 training activities on THB, 9 of which were focused on victim protection (1 in 2017, 3 in 2018, 4 in 2019 and one in 2020).¹³⁷ A detailed overview of these trainings is presented in Annex 4B. Data on the number of trainees is available only for 2017. The total number of trainees in 2017 was 633¹³⁸ (for all THB trainings; no data is available for trainees in victim protection only). Topics of the training included child trafficking, THB in the context of illegal migration, and labour trafficking. The primary target groups were law enforcement and prosecutors, but other groups, such as labour inspectors, customs and border officers and officials responsible for the operation of victim protection facilities were also trained. The CEPOL curriculum did not appear to include any courses addressing the gender dimension of THB.

In 2019, Frontex organised a series of anti-trafficking trainings for first- and second-line border police officers, with emphasis on the fundamental rights of the trafficked victims crossing EU external borders. The training approach was to train trainers from EU Member States who then train border guards in the respective national border forces. Data on the total number of training courses delivered or trainees is not available.

Member State level

The initial review of national efforts to comply with the requirements of the Anti-trafficking Directive to provide training of officials likely to come into contact with victims or potential victims of THB indicates that all Member States have planned and implemented various training activities. The latest GRETA evaluation report has not identified any Member States as needing an 'urge', and only one Member State, Sweden, received a 'partial urge' to enhance the training of medical staff and labour inspectors. The remaining 26 Member States were encouraged to continue and strengthen their training efforts.

Based on the review of national training activities, the following practices can be highlighted regarding the migration and gender dimensions:

Migration dimension

Training programmes have been provided to professionals who are most likely to come into contact with migrants who are potential victims of trafficking. The professionals include border police, asylum and migration officers, consular staff, labour inspectors, and NGOs supporting migrants and victims of trafficking. The number of migration-related training programmes seem to have grown since the migration crisis of 2015, although quantitative data to support this observation are yet to be collected. However, what has been observed is a growing emphasis on training activities related to children victims, including unaccompanied foreign minors.

An example of best practice is the simulation-based training exercise 'Combating Human Trafficking along Migration Routes', organized in 2018 by Italy and OSCE. The simulation-based training involves applying a multi-agency and human rights-based approach. The trainees included criminal

¹³⁷ The information on CEPOL's training activities is obtained from the agency's [website](#).

¹³⁸ CEPOL, [Annual Report 2017](#), 2018, p.18.

investigators, magistrates, immigration police officers, social workers, cultural mediators, labour inspectors, asylum officials, and NGO representatives.

Gender dimension

The initial review of national training for professionals working with victims of trafficking identified very few examples of specific courses addressing the gender dimension of THB. Classes such as 'Women in the asylum procedure' (including the topic of detection of victims of THB) in Belgium, or specialised training activities on trafficking in women and girls, organised by the Government Delegation against Gender-based Violence in Spain, appear to be the exception. Several Member States offer training programmes in the context of domestic violence (e.g., BG, HR, & LT), where the issue of THB is discussed from a gender perspective. The Spanish Cepaim Foundation has developed a THB-related training that focuses on work with male victims from a gender perspective.

The following general issues were identified:

- Target groups: GRETA evaluation reports note that in some countries the training is limited to specialised units (e.g., of law enforcement and prosecutors) dealing with trafficking, while other professionals who may encounter victims of trafficking in their work are not sufficiently trained to identify and protect such victims (DE & EL).
- Most trainings seem to be designed for representatives of a single agency (e.g., police, prosecutors, border guards, & social workers) rather than for multi-agency audiences, despite repeated recommendations to apply a multi-agency approach in trainings on victim identification and protection.
- Funding for training programmes, particularly for NGOs providing THB-related training, may be insufficient, or unavailable.
- Evaluations of both training needs and the impact of training activities are extremely rare. Exceptions include a Finnish study¹³⁹ on the proportion of health-care professionals who have received specific THB training, and a Dutch study¹⁴⁰ on awareness and need for THB training among medical staff.
- In terms of best practices, it should be noted that in a number of Member States, THB related training has involved additional groups of professionals, such as airline staff, bank officers (NL), teachers (BG, PL, PT, & ES), translators (BG), and hospitality industry personnel (RO).

According to country research and stakeholder interviews conducted for the purpose of this study, Member States provide abundant general training for officials in contact with VoT to help protect victims' rights. The target stakeholders include police, border police, immigration police, prosecutors, judges, legal counsellors, civil servants in anti-trafficking administrations, immigration authorities, asylum officials, social workers, and consular officials. However, in many Member States, additional categories of trained professionals were mentioned, such as health personnel (DK, FI, IT, PT), municipal employees (DK, EE, IT, LI), customs officials (DE, EE, MT), tax authorities (DK, EE), psychologists (EL, HU), interpreters (HU, IT), armed forces (HR, MT), and principals of secondary schools (SI). Interviewees in the Netherlands specifically shared that doctors and teachers need additional training.¹⁴¹

As regards the migration dimension of trainings, focused trainings (entirely or containing a relevant module) were held for immigration and asylum officials (AT, BE, BG, CY, CZ, EE, FI, EL, HU, IE, IT, LI,

¹³⁹ GRETA, [GRETA Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Finland: Second Evaluation Round](#), 2019.

¹⁴⁰ National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children, [Tenth Report of the National Rapporteur](#), 2017.

¹⁴¹ Country reports for DK, EE, EL, FI, HR, HU, IT, LI, MT, PT, SI.

LX, MT, PT), police (AT, BE, BG, CZ, EE, EL, ES, IT, LI, LX, MT, PT, SI), prosecutors, judges and legal counsellors (AT, IT, LI, MT, PT, SI), social workers (AT, HU, IT, MT, PT, SI), labour inspectors (LI, LX, PT) and consular officials (PL). Gender-focused trainings (or partly so) were carried out for police (AT, BG, ES, HR, CY, EL, LI, LX, MT, NL, PT), prosecutors, judges and legal counsellors (BG, DE, LI, LX, MT, PT), immigration and asylum officials (BG, EL, LX, MT, PT), social workers (BG, HR, DE, LX, MT, PT) and labour inspectors (LX, PT).¹⁴²

The main problems identified in the desk research and Member State interviews regarding trainings were insufficient quantity for certain categories of officials (BG, IE, LI, LX, MT, PL, PT, RO), limited knowledge and the need for repetition (AT, BE, BG, EL, LI, NL, RO), frequent turnover of officials (BG & EL), derogatory attitude of trainees towards victims (e.g., 'it's their own fault') (BG, LI), lack of harmonisation across country regions (IT, NL), need for more training on male victims of trafficking (ES, PT), need for more training on psychological aspects (ES), and limited knowledge demonstrated by translators (AT).¹⁴³

Only two Member States mentioned specific training on the re-victimisation aspect of victim protection (BG, PT).¹⁴⁴

In summary, trainings of officials are in principle adequate across the EU Member States, as are specialised trainings (or modules) focusing on migrants, third-country nationals, or asylum seekers. The most common problems identified are the insufficiency of trainings for certain types of officials and civil servant turnover. Therefore, more effort is needed to secure funding, assess and evaluate the efficiency of trainings, and address in a more focused manner the gender dimension of human trafficking.

4.2.4. Protection, assistance and support to vulnerable groups

Directive 2011/36/EU laid out standards for adequate protection, assistance, and support to be provided to victims of human trafficking. To this end, the scope of this research question examines the extent to which these standards have been met for some of the most vulnerable populations, and in specific, women and girls with physical or developmental disabilities, and children, including migrant children and unaccompanied minors, who are victims of trafficking. In addition, an overview of the financial and human resources allocated to address these standards is presented.

In the Directive, there is only a short passage stating that any 'assessment of... individual needs should take into consideration circumstances such as... a disability they may have'¹⁴⁵ and that 'Member States shall attend to victims with special needs'.¹⁴⁶ While lacking a clear gender dimension on the needs of those with physical or developmental disabilities within the Directive, its mandate still tacitly encompasses these areas. It has been noted that the absence of focus in this area has resulted in a deficiency of prioritisation and guidance in helping those with physical or developmental disabilities.¹⁴⁷

During the first GRETA evaluation round, nearly all country reports lacked any information on the protection, assistance, and support mechanisms in place for those with physical or developmental disabilities, not to mention those focused on aiding women and girls. Though all reports mention

¹⁴² Country reports for AT, BE, BG, CY, CZ, DE, EE, EL, ES, FI, HR, HU, IE, IT, LI, LX, MT, NL, PL, PT, SI.

¹⁴³ Country reports for AT, BE, BG, EL, ES, IE, LI, LX, MT, NL, PL, PT, RO.

¹⁴⁴ Country reports for BG and PT.

¹⁴⁵ [Directive 2011/36/EU](#), Article 1 (20).

¹⁴⁶ [Directive 2011/36/EU](#), Article 11 (7).

¹⁴⁷ EIGE, [Gender-specific measures in anti-trafficking actions](#), Publications Office of the European Union, 2018, p.36.

protections provided for vulnerable groups, only a few provide any information or mention of special assistance or consideration given to victims with physical or developmental disabilities (EE,¹⁴⁸ ES,¹⁴⁹ LV,¹⁵⁰ MT,¹⁵¹ NL¹⁵²).

During the second evaluations, EE, ES, and LV were the only country reports which specifically noted that special consideration should be given for those with physical or developmental disabilities. This lack of information and divergent availability of assistance is in line with findings of the European Commission's 2016 'Transposition' Report and largely continues to persist.¹⁵³ While some Member States (i.e., AT, DE, SL, ES), have action plans or policies directly addressing and asserting the rights of individuals with disabilities they do not cover their rights as victims of human trafficking.¹⁵⁴ Relatedly, but not specifically focused on women and girls with physical or developmental disabilities, GRETA has urged 16 Member States (three full 'urges' made to BG, IE, RO and 13 'partial urges'¹⁵⁵) to improve the overall provision of assistance to victims of trafficking.¹⁵⁶ Additionally, GRETA has issued six full 'urges'¹⁵⁷ and two 'partial urges' (FI, NL) for Member States to decouple the provision of assistance to cooperation with law enforcement, a decoupling that has seen progression since the first evaluation round.¹⁵⁸

Special provisions, be it legal, psychological, or otherwise, for those with disabilities is present in several reports, though these often lack specificity. The second evaluation for Spain notes that the country has training courses for educating security services on the special protection and assistance needs that must be considered when helping children and those with physical or developmental disabilities who are victims of human trafficking.¹⁵⁹

Likewise, in 2017, Hungary established new provisions that provide special assistance and protection for children and disabled victims were introduced.¹⁶⁰ In Austria, medical doctors are taught to be more sensitive when caring for those with disabilities, and some NGOs offer special services for victims with physical or developmental disorders.¹⁶¹ Meanwhile, in Croatia, individuals with disabilities are able to receive an extra 30-day reflection period.¹⁶² In the Netherlands, a programme called YIP (Your Inner Power) was launched in 2018 with the aim to assist victims of

¹⁴⁸ GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Estonia: Second Evaluation Round](#), 2018, p.34.

¹⁴⁹ GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Spain: First Evaluation Round](#), 2013, p.16.

¹⁵⁰ GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Latvia: First Evaluation Round](#), 2013, p.25.

¹⁵¹ GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Malta: First Evaluation Round](#), 2013, p.28.

¹⁵² GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Netherlands: First Evaluation Round](#), 2014, p.56.

¹⁵³ European Commission, [Report from the Commission to the European Parliament and the Council assessing the extent to which Member States have taken the necessary measures in order to comply with Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims in accordance with Article 23 \(1\)](#), 2016.

¹⁵⁴ European Union Agency for Fundamental Rights, [Violence against children with disabilities: legislation, policies and programmes in the EU](#). Publications Office of the European Union, 2015.

¹⁵⁵ BE, CY, DE, ES, FI, FR, HU, IT, LT, LX, MT, PL, SL.

¹⁵⁶ Council of Europe, [9th General report on GRETA's activities](#), 2020.

¹⁵⁷ ES, FR, IE, LX, RO, SL.

¹⁵⁸ Council of Europe, [9th General report on GRETA's activities](#), 2020, p.54.

¹⁵⁹ GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Spain: Second Evaluation Round](#), Council of Europe, 2018, p.14.

¹⁶⁰ GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Hungary: Second Evaluation Round](#), Council of Europe, 2019, p.44.

¹⁶¹ GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Austria: Second Evaluation Round](#), 2015; US Department of State, [Trafficking in Persons Report](#), 2019.

¹⁶² US Department of State, [Trafficking in Persons Report: June 2018](#), 2018, p.164.

sexual exploitation who have mild intellectual disabilities. This programme has been considered a success.¹⁶³

Conversely, obstacles persist for Member States in properly providing assistance or protection to those with physical or development disabilities. In Bulgaria, an interviewee noted that many services lack facilities such as ramps or handrails for those with physical disabilities.¹⁶⁴

In both Italy and Lithuania, interviewees noted that the lack of focus and awareness on the issue has resulted in a lack of effective assistance programmes within the respective countries, which has subsequently left law enforcement unprepared to protect individuals with physical or developmental disabilities.¹⁶⁵ Several Member States (BE,¹⁶⁶ DK,¹⁶⁷ FR,¹⁶⁸ IE,¹⁶⁹ IT,¹⁷⁰ LX,¹⁷¹ ES¹⁷²) have included harsher legal punishments for those who traffic vulnerable populations, including those with physical or developmental disabilities.¹⁷³

And while country reports for Bulgaria and Latvia noted a growing number of women and girl victims with developmental disabilities, they reported no targeted measures to provide assistance or protection to these populations.¹⁷⁴

Similarly, the Netherlands' second evaluation mentioned a slight increase in the number of children and young girls with developmental disabilities being targeted by traffickers with no details provided on protective measures.¹⁷⁵

Under the Directive, children should be provided free legal resources and assistance, and protective measures should be available for child victims with particular attention on unaccompanied child victims.¹⁷⁶ This aspect of assistance and protection has received much more attention and focus from Member States, and as such, many have improved access and care in recent years.¹⁷⁷ Still, many Member States lack adequate child protection and assistance services. As a result, GRETA issued

¹⁶³ Country report for NL.

¹⁶⁴ Country report for BG.

¹⁶⁵ Country reports for IT and LT.

¹⁶⁶ UNODC, [Abuse of a position of vulnerability and other 'means' within the definition of trafficking in persons](#), 2013, p.44.

¹⁶⁷ GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by France: Second Evaluation Round](#), 2016, p.39.

¹⁶⁸ GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Denmark: Second Evaluation Round](#), 2017, p.29.

¹⁶⁹ GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Ireland: Second Evaluation Round](#), 2017, p.49.

¹⁷⁰ GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Italy: Second Evaluation Round](#), 2019, p.57.

¹⁷¹ GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Luxembourg: Second Evaluation Round](#), 2018, p.31.

¹⁷² GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Spain: Second Evaluation Round](#), 2018, p.53.

¹⁷³ European Union Agency for Fundamental Rights, [Violence against children with disabilities: legislation, policies and programmes in the EU](#), Publications Office of the European Union, 2015.

¹⁷⁴ GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Bulgaria: Second Evaluation Round](#), 2016, p.7; GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Latvia: Second Evaluation Round](#), 2017.

¹⁷⁵ GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Netherlands: Second Evaluation Round](#), 2018, p.29.

¹⁷⁶ [Directive 2011/36/EU](#), Article 1 (22).

¹⁷⁷ Council of Europe, [9th General report on GRETA's activities](#), 2020.

eleven full 'urges'¹⁷⁸ and ten 'partial urges'¹⁷⁹ for authorities in those Member States to improve assistance provision.

Nevertheless, there have been many improvements in child victim assistance programmes in several Member States between the first and second evaluation rounds. In Austria, it was noted that the identification of child victims of trafficking has improved since the first evaluation round, and in Malta the government now provides comprehensive specialised support to child victims.¹⁸⁰ Additionally, EE, HR, and PT all have dedicated centres for child victims, while Finland has a reception centre specifically for children and unaccompanied migrant children.¹⁸¹

The Netherlands has two types of facilities for underage victims and unaccompanied minors and maintains a list of specialised lawyers for child victims of trafficking in addition to having an NGO that provides support and trainings for guardians of child victims of trafficking.¹⁸² Other forms of assistance for unaccompanied migrant children used in Spain and elsewhere have included long-term solutions such as putting them up for adoption or providing children with a residence permit. Likewise, in 2014, France passed a law which provided access to residence permits for all trafficking victims, though more can be done across Member States in terms of raising awareness on the rights and protections provided to all third country nationals who are victims of trafficking.¹⁸³ A law in Hungary came into effect in July 2020 that ended the possible persecution of child victims of sexual exploitation and improved protection and access to assistance for these victims.¹⁸⁴

Conversely, one of the major gaps in assistance that has persisted throughout the first and second evaluation rounds and remains in the present is inadequate accommodation for child victims. In MT, PT, RO and SI there are no facilities designated for unaccompanied child trafficking victims, while in Poland the government has not funded care or accommodation for child victims nor has the Polish government provided any assistance to unaccompanied children.¹⁸⁵ Similarly, in Hungary inadequate funding and staffing has resulted in improper care and security in facilities putting children at risk of re-trafficking.¹⁸⁶ In addition to these inadequacies, some Member States, such as Hungary, do not provide residence permits for any foreign nationals, including migrant child victims.¹⁸⁷ While others, such as FI, LT and SI provide temporary residence permits based on cooperation with law enforcement.¹⁸⁸

In a majority of Member States, NGOs play a predominant role in providing front-line assistance to all victims of trafficking, though their ability to hire staff and provide services is often dependent on funding provided by the government or from donations and other external sources. This can create

¹⁷⁸ AT, BG, CY, ES, FR, LV, MT, PL, PT, RO, SL.

¹⁷⁹ BE, DE, DK, HR, HU, IT, LT, LX, SE, SK.

¹⁸⁰ GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Austria: Second Evaluation Round](#), 2015; US Department of State, [Trafficking in Persons Report](#), 2019.

¹⁸¹ US Department of State, [Trafficking in Persons Report](#), 2019.

¹⁸² European Union Agency for Fundamental Rights, [Guardianship systems for children deprived of parental care in the European Union](#), 2015.

¹⁸³ Platform for International Cooperation on Undocumented Migrants, [Guide to the EU victims' directive: Advancing access to protection, services and justice for undocumented migrants](#), 2015.

¹⁸⁴ Country report for HU.

¹⁸⁵ US Department of State, [Trafficking in Persons Report](#), 2019, pp.385, 422.

¹⁸⁶ US Department of State, [Trafficking in Persons Report](#), 2019, p.232.

¹⁸⁷ GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Hungary: Second Evaluation Round](#), 2019.

¹⁸⁸ GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Lithuania: Second Evaluation Round](#), 2015; GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Slovak Republic: Second Evaluation Round](#), 2015; National Rapporteur on Trafficking in Human Beings, Non-Discrimination Ombudsman, [Women of Nigerian origin in Finland who have been subjected to trafficking for sexual exploitation: Practice in applying the Aliens Act](#), 2016.

an array of challenges for some NGOs seeking to provide aid when funding is tied up by bureaucracy or is only guaranteed in the short-term.¹⁸⁹ In Hungary, regulations have prevented NGOs from being able to properly identify and assist victims,¹⁹⁰ while in the Slovak Republic it was reported that a delay in funding resulted in NGO staff having to resort to impromptu solutions such as personal loans to provide necessary care for victims.¹⁹¹ Other gaps in funding have resulted in the provision of care that does not wholly cover victims, such as in Bulgaria where funding for crisis centres does not cover health care or in Sweden where funding for legal aid is insufficient to cover lawyer fees.¹⁹² Additionally, in a number of Member States (IT, LV, LT, LX), it was reported that human resources are a significant constraint in the ability of Member States to effectively identify, assist and protect victims of human trafficking.

As such, overall funding for assistance programmes remains a problem and is a major obstacle for providing quality care, especially in the case of long-term projects aiding victims of human trafficking.¹⁹³ A number of Member States¹⁹⁴ were noted to have increased assistance spending, with funding stagnating or decreasing in the remaining Member States. In the Netherlands, for example, funding for victim shelters decreased by nearly 50 % from 2017 to 2018.¹⁹⁵ A similar budget reduction was observed in Bulgaria, where funding for victim protection assistance was reduced by half.¹⁹⁶ Meanwhile, in Belgium a reduction in funding resulted in assistance programmes laying off specialised staff.¹⁹⁷

Without an increase in funding, many Member States¹⁹⁸ are unable to adequately provide for victims of human trafficking. Even Member States that increased assistance aid, such as France,¹⁹⁹ Latvia, Malta and Poland, still lacked sufficient funding in some programmes, resulting in inadequate special assistance provided to victims.²⁰⁰

Overall, Member States lack adequate targeted protection and assistance programmes for women and girls with physical or developmental disabilities. The few Member States (EE, ES, LV, MT, NL) that specifically mention these vulnerable populations in protection or assistance guidelines provide vague details on these measures. And while the vast majority of Member States provide some form of protection or assistance for children, they vary widely by Member State, with some Member States having no facilities for unaccompanied children (MT, PT, RO, SI) while others (FI) have dedicated centres for unaccompanied children or even provide residence permits for them (ES). Finally, nearly all country reports note that inadequate funding has hindered efforts to protect and assist victims of trafficking.

¹⁸⁹ Council of Europe, [9th General report on GRETA's activities](#), 2020.

¹⁹⁰ GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Hungary: Second Evaluation Round](#), 2019, p.47.

¹⁹¹ GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Slovak Republic: Second Evaluation Round](#), 2015, p.24.

¹⁹² GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Sweden: Second Evaluation Round](#), 2018; US Department of State, [Trafficking in Persons Report](#), 2019.

¹⁹³ EIGE, [Gender-specific measures in anti-trafficking actions](#), 2018.

¹⁹⁴ AT, FI, FR, IE, IT, LT, LV, MT.

¹⁹⁵ US Department of State, [Trafficking in Persons Report](#), 2019, p.321.

¹⁹⁶ Country report for BG.

¹⁹⁷ GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Belgium: Second Evaluation Round](#), 2017, p.29.

¹⁹⁸ AT, BG, CY, DE, DK, HR, LT, LX, RO, SE, SK, SL.

¹⁹⁹ GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by France: Second Evaluation Round](#), 2017, p.76.

²⁰⁰ US Department of State, [Trafficking in Persons Report](#), 2019, p.199.

4.2.5. Online platforms and social media

Despite the rise in the use of the Internet, especially social media and the dark web, as an avenue for the trafficking of human beings by either the traffickers or victims, this use is not mentioned within the Directive.²⁰¹ Since the 6th General Report in 2016, GRETA has noted the rise in internet use among traffickers, each year requesting that Member States do more to counteract this trend. Additionally, almost none of the first evaluation reports from GRETA mention measures taken to reduce the use of the Internet as a conduit of human trafficking and instead discuss it solely as a tool to spread awareness. However in recent years, preventing the use of the Internet for crimes has become a priority within the EU, with measures aimed at reducing its use mentioned in all second evaluation reports, though to varying levels and degrees of success.²⁰²

While some Member States created expansive projects aimed at countering the presence of human trafficking online that were noted in the second evaluation round, others (such as AT, LT, LX) lacked even cursory discussions of the role of the Internet in either the first or second round evaluation. Only a few noted measures to protect victims, such as Cyprus, where statements from trafficking victims are written on a computer not connected to the internet to protect the identity of victims. Meanwhile, in the Netherlands, shelters for child victims of trafficking restrict access to the Internet upon entry for a month.

Conversely, a large majority of Member States have noted increased law enforcement focus and anti-trafficking efforts on countering human trafficking online. This increased attention is due in part to the burgeoning use of the Internet as a tool for trafficking, with several Member States (AT, BG, FR, SE) even noting an increase in trafficking activity between the first and second evaluation round.

As such, there is a growing need for Member States to address the role of how the Internet is increasingly used to facilitate and commit crimes. One way that Member States have chosen to confront this is by conducting online awareness campaigns to educate people on topics such as online safety and similar areas related to the trafficking of human beings. One measure in place across all Member States since 2005 is Safer Internet Centres, which produce videos and convene workshops on online threats that target children, such as online stalking and grooming.²⁰³ Similarly, Ireland has created a series of booklets to promote safe internet use in addition to having a programmes in schools which discuss topics such as online safety with young people.²⁰⁴ Additionally, Romania has carried out online awareness campaigns using Facebook and online contests to bring attention to trafficking and educating children on the dangers present on social media.²⁰⁵ Germany has an online awareness campaign aimed at preventing the sexual exploitation of children in the tourism industry while some specialised counselling centres have conducted trainings and prepared informational material on the risk of child trafficking online.²⁰⁶ Finally, in 2019, Portugal created a free App which provides information to victims of trafficking and is available in five languages.²⁰⁷

²⁰¹ A. Nicola Di, G. Baratto, E. Martini, [Surf and Sound: The role of the Internet in people smuggling and human trafficking](#), eCrime, 2019.

²⁰² Council of the European Union, [Council conclusions on setting the EU's priorities for the fight against organised and serious international crime between 2018 and 2021](#), 2017.

²⁰³ GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Czech Republic: First Evaluation Round](#), 2020.

²⁰⁴ GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Ireland: Second Evaluation Round](#), 2017.

²⁰⁵ GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Romania: Second Evaluation Round](#), 2016.

²⁰⁶ GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Germany: Second Evaluation Round](#), 2019.

²⁰⁷ Country report for PT.

Other Member States have law enforcement units dedicated to investigating trafficking and other crimes online:

- Bulgaria has held regional, national and international trainings for professionals, educators and other specialists on human trafficking and internet use since 2017, including an Anti-Trafficking Volunteer Academy held in March 2019.²⁰⁸
- In Ireland, the Office for Internet Safety within the Department of Justice and Equality promotes internet safety. In addition, Ireland has a Paedophile Investigation Unit that investigates trafficking in children and other exploitative crimes which occur online.²⁰⁹
- Lithuania has conducted prevention campaigns aimed at disrupting the market of trafficking online, including one focused on raising awareness of the labour exploitation of Lithuanians in the United Kingdom.²¹⁰
- In Poland the police actively search the Internet for advertisements regarding organs for transplant.²¹¹
- Sweden has expanded its cybercrime division and offers courses for police on surveillance and target searching online which includes a focus on children as victims of trafficking.²¹²

Additionally, CEPOL has conducted four online courses and webinars since 2018²¹³ for law enforcement on topics such as the 'THB: Internet as an enabler' and 'Detection and investigation of criminal activities in the area of THB (The basics of cyber-investigation for THB specialists)'.²¹⁴ Likewise, Europol has carried out activities in this area, including an expert meeting on the link between the Internet and human trafficking in 2014,²¹⁵ and a 'cyber-patrolling week' in 2017 in which law enforcement targeted online perpetrators of crimes, including THB.²¹⁶

In Spain, authorities are able to intercept online communication for crimes such as human trafficking, and in Belgium, the police can request Internet providers to identify users during trafficking investigation.²¹⁷ However, it is noted that more training and resources should be allocated to improve effectiveness of such efforts.²¹⁸ For example, in The Netherlands, not only do police officers pose as children online to stop those who seek to groom children for abuse or exploitation, they have also posted fake advertisements promoting sex with children which, if clicked, will notify the user that they are being monitored and may be punished.²¹⁹ Likewise, France

²⁰⁸ Country report for BG; National Commission for Combating Trafficking in Human Beings (2019). Report of the NCCTHB for the implementation of the 2019 national and local programmes for prevention and counteraction of trafficking in human beings and protection of the victims.

²⁰⁹ GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Ireland: Second Evaluation Round](#), 2017.

²¹⁰ Country report for LT.

²¹¹ GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Poland: Second Evaluation Round](#), 2017.

²¹² GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Sweden: Second Evaluation Round](#), 2018; Country report for SE.

²¹³ These include two one day webinars, one three-week online course, and one four-week online course.

²¹⁴ Online course 01/2018: 'Detection and investigation of criminal activities in the area of THB (The basics of cyber-investigation for THB specialists)'; Online Course 05/2019: 'Trafficking in Human Beings as a Cyber-enabled Crime'; Webinar 21/2019 'Use of Open Source Intelligence in Trafficking in Human Being'; Webinar 4/2018 THB: 'Internet as an enabler'. See: [CEPOL website](#).

²¹⁵ Europol, [Increased focus on the link between the Internet and Human Trafficking](#), 2014.

²¹⁶ Europol. [Cyber-patrolling week](#).

²¹⁷ GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Spain: Second Evaluation Round](#), 2018.

²¹⁸ Country report for BE.

²¹⁹ GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Netherlands: Second Evaluation Round](#), 2018.

has officers trained for covert Internet investigations to combat crime online, including a group focused on spotting suspected cases of trafficking for the purposes of organ removal.²²⁰ Since 2009, Malta has had an Internet filter which blocks websites that share material featuring child abuse. The filter is managed by the Cyber Crime Unit.²²¹ In Estonia, the police search the Internet for advertisements offering sexual services and then engage with the announcement to determine if it is related to trafficking or another criminal act.²²² Meanwhile, Finland has an online tip service where people can report illegal online activities, in addition to an NGO which works with police to detect child sexual abuse material online.²²³

Additionally, several Member States (e.g., BE, BG, CY, IE, LV, RO) can block websites which have illicit content, such as child pornography, or sites used for other criminal activity. However, in the Slovak Republic, there is currently no way for police to block websites. Yet if criminal proceedings are underway, websites that share child pornography or are used to recruit victims of trafficking can be blocked.²²⁴ Similarly, in Germany the police have no authority to block websites or remove advertisements of suspected victims of trafficking. Instead, the Landeskriminalamt, or state police, alert the federal police - the Bundeskriminalamt, which can then delete the content but only with the hosts' prior approval.²²⁵ Websites in Croatia that have the '.hr' domain and are suspected of a criminal offence can be temporarily deactivated by the Croatian Academic and Research Network, while other domains can only be blocked through a court order.²²⁶ Meanwhile, since 2015, in Austria an eSafety Commissioner acts as a regulator, educator, and coordinator for online safety.²²⁷ From awareness campaigns to law enforcement, Member States have attempted to meet the growing threat of online trafficking. Though, due to the nature of the internet as international and largely anonymous technology, these efforts to curb trafficking online have proven difficult as noted in some of the country reports (AT, EL, IE, & NL), with more to be done.

4.3. Conclusions and recommendations

Based on the findings presented above, it can be concluded that Member States are gradually introducing legislation in line with the Directive's Article 18. There were 14 Member States in 2016 that had enacted some form of criminalising texts for the knowing use of services of VoT, and as of 2018, the number of Member States in compliance with Article 18 had increased to 25 (over 90 % of the Member States). However, the criminalisation was selective in some cases (as stated by the European Commission's Second Progress Report). Nevertheless, the number of Member States that have explicitly criminalised the use of services under all forms of exploitation has remained low (10 – less than 50 % of the Member States), and there are still 2 Member States that have not reported any concrete legislation (HU, SK). In addition, even those Member States whose legislation complies with the Directive have reported difficulties in applying the Directives, particularly due to the inherent challenges associated with proving knowledge in using the services of VoT, and little judicial practice exists.

²²⁰ GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by France: Second Evaluation Round](#), 2017.

²²¹ Country report for MT.

²²² Country report for EE.

²²³ GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Finland: Second Evaluation Round](#), 2019.

²²⁴ GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Slovak Republic: Second Evaluation Round](#), 2015.

²²⁵ GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Germany: Second Evaluation Round](#), 2019.

²²⁶ Country report for HR.

²²⁷ WePROTECT Global Alliance, [Global Threat Assessment](#), 2019.

An EU-wide (and global) trend since 2016 has been the decline in the relative number of prosecutions and convictions for trafficking in human beings.²²⁸ While a dearth of data is available on what percentage of these cases concern knowing users of services of victims, specifically in the EU, the general reduction in the number of prosecutions does not bode well for the successful prevention of the crime by reducing the demand for it. The decreasing number of charged and convicted general perpetrators reinstates the sense of impunity among offenders, be they traffickers or users of services who have the knowledge they are accomplices in the exploitation of victims.

A crucial recommendation would be for Member States who have not yet done so to introduce legislative changes so as to explicitly criminalise knowingly using the services of victims of trafficking. In addition, Member States should focus on policies and measures aimed at enhancing trust and reducing vulnerability in victims. One conclusion that can be drawn from the findings is that Member States and businesses, especially those in countries of destination of trafficking for labour exploitation (e.g., AT, BE, EL, FI, PT, SI), do attempt to cooperate to prevent exploitation of trafficking victims, as the Directive states. Efforts to-date have been insufficient, however, as companies, even if they state their ethical principles in written form, have been reluctant to focus specific attention on trafficking and question the extent to which they can realistically, actively identify issues down to the bottom of the supply chain.²²⁹ In some cases, businesses are not even aware of the problem of human trafficking and exploitation along the supply chain. In Member States which are traditionally countries of origin (e.g., BG, RO), the level of cooperation between governments and the private sector is less visible and takes the form of sporadic joint forums, projects or awareness-raising campaigns. Based on these observations, among others, recommendations include: 1) increasing transparency in supply chains of businesses; 2) educating managers and workers about the risks and consequences of THB; 3) enhancing cooperation with trade unions; 4) improving regulation of recruitment agencies and labour agents; and 5) stepping-up labour inspections.

Regarding training of relevant stakeholders, measures have been taken by all Member States. Unfortunately, limited information was available on the number of trainees by category and the effectiveness and impact of these measures. The number of migration-related trainings appear to have grown since the migration crisis of 2015. Recommendations would include providing more consistent funding for trainings, expanding the groups of professionals who are trained, carrying out regular assessments of the impact of trainings and highlighting the gender dimension of trafficking.

Most Member States report that protection has been provided for vulnerable groups, but only a few Member States provide any information or mention of special assistance or consideration given to victims with physical or developmental disabilities. Both those with disabilities and children generally have access to free legal resources and translation or interpretation services under the broader victim's assistance programmes. However, children victims have received much more attention and focus from Member States, and as such, many have improved access and care in recent years. At the same time, many Member States lack adequate child protection and assistance services. The biggest gap, however, concerns inadequate accommodation of child victims. In the majority of Member States, NGOs play a predominant role in providing front-line assistance to all victims of trafficking, but often their overall funding remains a problem and major obstacle for providing quality care, especially in the case of long-term projects aiding victims of human trafficking.²³⁰ Recommendations would include providing adequate, long term funding for victim

²²⁸ WePROTECT Global Alliance, [Global Threat Assessment](#), 2019; UNODC, [Global Report on Trafficking in Persons 2016](#), 2016, pp.50-53.

²²⁹ ICAT, European Coalition for Corporate Justice.

²³⁰ Council of Europe, [9th General report on GRETA's activities](#), 2020.

assistance services as well as increasing trainings and assistance programmes tailored to vulnerable populations: be it those with disabilities or children.

In recent years, preventing the use of the Internet for crimes has become a priority within the EU, with measures aimed at reducing its use mentioned in all second evaluation reports, though to varying degrees. This increase in focus is a response to quick growth in the share of internet recruitment of victims of trafficking and provision of services by victims. Member States have deployed law enforcement units dedicated to investigating trafficking and other crimes online, including those utilising social media or the dark web to facilitate their crimes. Additionally, many Member States can block websites which have illicit content, such as child pornography or sites used for other forms of trafficking. Recommendations would include ensuring a continuation of focus and resources devoted to combating human trafficking online while also raising public awareness on the prevalence of human trafficking online.

5. Context of asylum procedures

Key findings

EU legislation provides a general framework for an improved identification and protection of THB victims in international protection procedures. The majority of Member States has recognized that asylum seekers are vulnerable to exploitation and have put in place measures to identify potential victims. Nevertheless, the proper implementation of identification and protection measures has been challenged by the lack of data on identified victims in international protection procedures which limits the evaluation of the applied policies. Furthermore, there appears to be limited time and resources in some Member States to apply a personalized approach in the identification of THB victims. Asylum seekers' fear to report exploitation remains because of fear of insecurity of residence and penalisation by the state. Poor reception conditions that are not adequate to monitor identified THB victims among asylum seekers as well as an increased number of asylum applications limits the capacities of Member States to provide protection.

Chapter 5 addresses the trafficking in human beings in the context of asylum procedures. As the structure in Chapter 4, specified research questions are presented through the context and relevance which are first described briefly. The aim of this chapter is to summarise the way refugee flows have impacted the trafficking in human being's situation in the EU and examines the relative effectiveness of the mechanisms for identification of victims of trafficking in asylum procedures. This is achieved through research on:

- Migration flows and trafficking in human beings (5.2.1);
- Effectiveness of identification of victims of trafficking in asylum procedures (5.2.2).

The findings of this chapter rely on 27 country reports prepared based on desk research and interviews with representatives of national institutions. The national data is complemented by a review of international and EU-level policy reports and academic publications. The process involves classification of the qualitative data from the interview transcripts and questionnaires under codes, corresponding to the different implementation approaches of the trafficking in human beings and asylum acquis and the extent to which migration flows have affected the THB situation in the country.

5.1. Context

Victims of trafficking have been designated as a category of asylum seekers in need of special assistance and protection. Within the EU, two relevant legal instruments have been adopted to guarantee this special assistance and protection: Directive 2011/36/EU and Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of THB or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities. The EU Anti-Trafficking Directive requires Member States to establish appropriate mechanisms aimed at the early identification of victims.²³¹

Where the competent authorities have 'a reasonable-grounds indication for believing' that the migrant is a victim of human trafficking and/or when the migrant has been identified as a victim of human trafficking, Member States are obliged to inform him/her of the procedures under Directive 2004/81/EC and of the possibility of being granted international protection pursuant to the EU

²³¹ [Directive 2011/36/EU](#), Article 11 (4).

Qualification Directive²³², the Recast Asylum Procedures Directive²³³, or pursuant to other international instruments or other similar national rules.²³⁴ At the same time, the EU asylum acquis also introduces obligations to identify and provide additional support to vulnerable applicants, including victims of THB. Under the EU Recast Asylum Procedures Directive, Member States are obliged to assess whether the applicant for international protection is in need of 'special procedural guarantees'.²³⁵ The EU Recast Reception Directive has introduced the concepts of 'vulnerable persons' and 'applicants in need of special procedural guarantees' and explicitly lists victims of human trafficking within these groups.

Directive 2011/36/EU also provides that Member State authorities should take due account of the personal and special circumstances of the unaccompanied child victim of trafficking.²³⁶ In this regard, they should take measures based on the best interests of the child and where appropriate, appoint a guardian of the unaccompanied minor.

The EU legislative instruments and their implementation in the Member States should be in line with the EU fundamental right to seek asylum set in Article 18 of the EU Charter of Fundamental Rights. This requires EU Member States to ensure adequate reception conditions to asylum seekers and to avoid expelling individuals seeking international protection to unsafe third countries.

5.2. Research findings

5.2.1. Migration flows and trafficking in human beings

EU institutions have recognised that heavy migration flows could increase the risk of trafficking in human beings in Europe.²³⁷ In some cases, there is a direct causal link between exposure to trafficking and becoming a migrant and subsequently becoming an asylum seeker.²³⁸ In an effort to escape from a situation of exploitation in their country of origin, some individuals end up applying for international protection. However, exploitation could also be a result of the risks to which a migrant is exposed at various stages of their migration and asylum processes. The key factors that increase the vulnerability of migrants to fall victims to trafficking include: (1) limited access to information about migration procedures, (2) lack of understanding of employment systems and regulations in countries of destination, (3) the role of third-party intermediaries in the migration process, and (4) the lack of safe, legal and orderly channels of migration available to asylum seekers, such as humanitarian visas and humanitarian corridors to European Union countries.²³⁹ The risks of trafficking may also differ for different categories of migrants:

²³² [Directive 2011/95/EU](#) of the European Parliament and of the Council of 13 December 2011 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 (Directive 2011/95/EU)

²³³ [Directive 2013/32/EU](#) of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (Directive 2013/32/EU)

²³⁴ [Directive 2013/32/EU](#), Article 11(2)(5)(6).

²³⁵ [Directive 2013/32/EU](#), Article 24(1).

²³⁶ [Directive 2011/36/EU](#), Article 16(1).

²³⁷ European Commission, [Second report on the progress](#), 2018; Europol, European Migrant Smuggling Centre, [4th Annual Report](#), 2020; Europol, [Situational report on trafficking in human beings](#), 2016.

²³⁸ FAFO/ A. Brunovski, A. and R. Surtees, [Vulnerability and exploitation along the Balkan route: Identifying victims of human trafficking in Serbia](#), 2017; OSCE, [From Reception to Recognition: Identifying and Protecting Human Trafficking Victims in Mixed Migration Flows](#), 2017.

²³⁹ IOM/ F. David, K. Bryant and J. Joudo Larsen, [Migrants and their vulnerability to human trafficking, modern slavery and forced labour](#), 2019.

- Refugees travelling with international protection documents or migrants arriving legally to the EU (e.g., as tourists or students), and only then applying for an asylum may face lesser risks of being trafficked;
- Migrants from conflict areas, who enter the EU in an irregular manner by using services of smugglers, and seek to reach particular EU countries rather than staying in transit countries, such as safe non-EU countries or other EU countries, face increased risks of being trafficked;
- Economic migrants, who are not genuine asylum seekers and enter the EU illegally, also face increased risks of exploitation. They often end up abandoning asylum procedures, or their asylum applications get declined, which subjects them to the prospect of returning to their country of origin. When choosing to remain illegally in the EU, the risks of this group of migrants being exploited increase.

The effects of migration flows linked to asylum seekers on the trafficking in human beings' situation differ across Member States. In those Member States, which asylum seekers and migrants perceive as 'transit' countries, potential THB victims might be unwilling to self-report exploitation and seek assistance, as this might prevent them from reaching their destination country.²⁴⁰ Here, coming to the attention of the authorities and being registered as asylum seeker in a transit country, would prevent irregular migrants from successfully applying for asylum in the destination country they intend to reach.

Member States which have faced only a moderate pressure on their asylum systems recognised that asylum seekers might be vulnerable to exploitation, but considered that it had not significantly changed the trafficking in human beings' situation in the country (EE, LT, LI, LU). This is partly due to the fact that the majority of non-EU THB victims in these Member States come from visa-free countries (such as Western Balkan countries, Brazil, the Ukraine) and do not need to use the asylum system.²⁴¹ In NL and BE, the migration flows have only slightly altered the profile of THB victims and trafficking in human victims from some EU Member States is still on-going. Member States at the frontline, which border to Eastern and Central Mediterranean countries, have confirmed that increased migration flows have increased the vulnerability of asylum seekers to exploitation (EL, IT, ES). Further, authorities in DE have noted that while victims were previously smuggled directly into Germany by air, they now hear from many identified victims, especially of African origin, that they experienced sexual exploitation when taking the long migration route from Africa to Europe.

Other forms of trafficking, such as labour exploitation, forced criminality or forced begging were influenced to a lesser extent by migration flows, as they concern predominantly EU citizens or non-EU citizens that do not use the asylum system (FR, BE).

Exploitation along migration routes

In a 2017 survey conducted by the IOM with over 9000 migrants and refugees travelling along the central and eastern Mediterranean route, the findings revealed that the prevalence of trafficking in human beings among them is high.²⁴² Almost two-thirds of male and female respondents who had been travelling along the central Mediterranean route reported personal experiences of being kept at a certain location against their will, and/or having worked or performed activities without getting the expected payment, and/or being forced to perform work or activities against their will, or being

²⁴⁰ BG, CZ, HR, HU, SK, SL.

²⁴¹ EE, ES, Interview EU03.

²⁴² IOM/ F. David, K. Bryant and J. Joudo Larsen, [Migrants and their vulnerability to human trafficking, modern slavery and forced labour](#), 2019.

approached by someone with offers of an arranged marriage.²⁴³ As to the survey respondents who had been travelling on the eastern Mediterranean route, a smaller share of surveyed migrants (9 % of male and 15 % of female) reported direct experience of the four abovementioned exploitative practices.²⁴⁴

During their migration journey, migrants may become vulnerable to exploitation for several reasons. They are often disconnected from their support networks, lack travel documents and/or the ability to obtain visas legally, or are dependent on others for the migration journey logistics, such as their accommodation and transportation.²⁴⁵

Many economic migrants leave their countries of origin with limited funds, having pre-paid or borrowed money to either travel or be smuggled into the EU. While they are en route, (irregular) migrants normally do not have access to the legal labour market in transit countries and thus few options to legally earn money.²⁴⁶ Measures to counter migrant smuggling may leave such persons stranded in transit third countries, and force them to further accumulate debt to smugglers to continue their journey.

Reports suggest that on the central Mediterranean route, exploitation originating from contracted debt occurs during migrants' stay in Egypt or Libya, and often takes shape in sexual exploitation of women.²⁴⁷ The security conditions in Libya have worsened the situation for some female migrants in transit who are kept in so-called 'connection houses' or 'ghettos' for long periods of time, where they are subjected to sexual violence and torture.²⁴⁸ In confirmation of this, a survey of migrants arriving from the central Mediterranean route suggested that longer periods of time spent in transit from one country to the next are associated with a higher share of people reporting to have experienced at least one of the forms of trafficking.²⁴⁹ Similarly, the share of migrants reporting exploitation was higher among those who spent one year or more in a country different from their country of origin before moving further towards their EU destination country.

In addition, in 2015, IOM also registered an increase in the number of pregnant women arriving in Italy, whereby some of these pregnancies were attributed to sexual exploitation taking place in Libya.²⁵⁰ The smugglers' network often abuses the position of pregnant women, who usually receive better treatment upon arrival and/or the authorisation for legal stay in European Union countries. Another common practice for traffickers is to enter the EU with their victims. Upon arrival in the EU, they force the victim to declare being married to the traffickers and go through the asylum procedure as a family.²⁵¹

Exploitation following arrival to the EU

Factors which increase the risk of exploitation after the arrival to the EU and entering the asylum procedures include a limited understanding of local norms and legal systems and a lack of trust in

²⁴³ Ibid.

²⁴⁴ Ibid.

²⁴⁵ IOM/ F. David, K. Bryant and J. Joudo Larsen, [Migrants and their vulnerability to human trafficking, modern slavery and forced labour](#), 2019; OSCE, [From Reception to Recognition: Identifying and Protecting Human Trafficking Victims in Mixed Migration Flows](#), 2017.

²⁴⁶ IOM/ F. David, K. Bryant and J. Joudo Larsen, [Migrants and their vulnerability to human trafficking, modern slavery and forced labour](#), 2019.

²⁴⁷ IOM, [Report on victims of trafficking in mixed migration flows arriving in Italy by sea](#), 2015.

²⁴⁸ IOM/ F. David, K. Bryant and J. Joudo Larsen, [Migrants and their vulnerability to human trafficking, modern slavery and forced labour](#), 2019.

²⁴⁹ IOM, [The human trafficking and other exploitative practices indication survey male and female respondents interviewed along the Central and the Eastern Mediterranean route in 2017](#), 2018.

²⁵⁰ IOM/ F. David, K. Bryant and J. Joudo Larsen, [Migrants and their vulnerability to human trafficking, modern slavery and forced labour](#), 2019.

²⁵¹ Ibid.

local authorities.²⁵² Reception centres could also expose potential victims to risks associated with large numbers of people lacking adequate monitoring, security and protection.²⁵³

Some of the asylum seekers might still be under the control of their smugglers or traffickers, who exploited them en route, or who have means to control or threaten the asylum seekers' family in their country of origin. Various law enforcement authorities have noted that this is a common practice with Nigerian organised crime groups, which force women applying for international protection status to repay their journey through the provision of sex services and begging.²⁵⁴ For example, according to law enforcement authorities in Belgium, Nigerian victims are recruited in Benin following an explicit request of a 'madam' living in Europe. After transiting through one of the Italian reception centres, the girls are relatively easily picked up by the Nigerian networks and taken to their destination country (BE, DE). As soon as the woman reaches her 'madam', she and her parents are informed of the amount of the 'debt' that the young girl has to pay back to her 'madam'. The recruitment itself could also take place in the reception centre. There have been cases of migrants at reception centres who were forced to assist EU-based traffickers by acting as intermediaries. Activities in this regard include facilitating communication with potential victims, or even to directly recruit victims on the traffickers' behalf.²⁵⁵ The status of traffickers themselves varies, in that they could either hold EU legal residence permits or citizenship, be asylum applicants themselves, or have international refugee status.²⁵⁶

While smugglers could be involved in human trafficking cases, of which aspects are taking place in reception centres, they do not account for a significant number of the exploitation cases.²⁵⁷ Asylum seekers and refugees also reported to have been exploited by local criminal groups, by fellow asylum seekers/refugees and by intimate partners or other family members. For example, in the situation of a massive scale of migrant movement,²⁵⁸ assistance in asylum centres might be provided without too much focus on and adaptation to individual characteristics such as gender, age and culture. For example, a lack of areas segregated by gender in reception centres, coupled with limited security measures, could expose female asylum seekers and refugees to possible assault or harassment.²⁵⁹ In this regard, Greek authorities have noted that overpopulated reception centres create poor conditions for asylum seekers and there is an increased risk of re-victimisation on EU territory or a continuation of the victim's exploitation (GR).

A sizable share of trafficking cases involving forced criminality among migrants particularly relates to forced labour in cannabis cultivation or organised property crime, such as pickpocketing or shoplifting.²⁶⁰ In such cases, the EU Anti-Trafficking Directive requires Member States' authorities to

²⁵² IOM/ F. David, K. Bryant and J. Joudo Larsen, [Migrants and their vulnerability to human trafficking, modern slavery and forced labour](#), 2019.

²⁵³ FAFO/ A. Brunovski and R. Surtees, [Vulnerability and exploitation along the Balkan route: Identifying victims of human trafficking in Serbia](#), 2017.

²⁵⁴ Europol, European Migrant Smuggling Centre, [4th Annual Report](#), 2020; Europol, [Situational report on trafficking in human beings](#), 2016.

²⁵⁵ FAFO/ A. Brunovski and R. Surtees, [Vulnerability and exploitation along the Balkan route: Identifying victims of human trafficking in Serbia](#), 2017; OSCE, [From Reception to Recognition: Identifying and Protecting Human Trafficking Victims in Mixed Migration Flows](#), 2017.

²⁵⁶ Europol, European Migrant Smuggling Centre, [4th Annual Report](#), 2020; Europol, [Situational report on trafficking in human beings](#), 2016.

²⁵⁷ A. Brunovski and R. Surtees, [Identifying trafficked migrants and refugees along the Balkan route. Exploring the boundaries of exploitation, vulnerability and risk](#), 2019, pp.73-86.

²⁵⁸ Such as the 2014-2015 refugee crisis along the Eastern Mediterranean and Western Balkan route.

²⁵⁹ FAFO/ A. Brunovski and R. Surtees, [Vulnerability and exploitation along the Balkan route: Identifying victims of human trafficking in Serbia](#), 2017.

²⁶⁰ Europol, European Migrant Smuggling Centre, [4th Annual Report](#), 2020; Europol, [Situational report on trafficking in human beings](#), 2016.

not prosecute or impose penalties on trafficking victims for their involvement in criminal activities into which they had been coerced.²⁶¹ However, law enforcement authorities have also warned about the risk of irregular migrants abusing these provisions by claiming exploitation in an effort to avoid or delay extradition.²⁶²

It is important to note that almost a third of asylum seekers arriving the EU are children.²⁶³ National research from the Netherlands suggested that a noteworthy modus operandi applied by traffickers in the Netherlands is related to unaccompanied minors. These children disappear from their 'residences' and are believed to have reunited with a trafficker. Particularly Nigerian and Vietnamese children seem to be vulnerable for this type of trafficking.

Exploitation following a return decision

Some factors increase the risks of migrants becoming a victim to trafficking when they are refused an asylum status and a return decision is issued.²⁶⁴ For one, some migrants may be unable to repay the sums they had borrowed to reach the EU with the assistance of a 'coyote', or they want to avoid the 'shame' of returning home even poorer, or they would like to give their family and friends the impression of wealth acquisition during their migration journey. Such individuals therefore become vulnerable and may fall into a situation of sexual or labour exploitation.

Data on the number of identified THB victims in international protection procedures

Administrative data on the number of THB victims identified in international protection procedures in the last three years is limited. Only 10 Member States provided such information for the period 2017 – 2019 (see Table 5.1).²⁶⁵ In five of these Member States, no THB victims were identified in international protection procedures (EE, LT, LI, HU, RO). In CZ and SK, only 1 victim was identified respectively each year, but authorities in these countries also noted that the number of asylum applications they process is also low. During the same period, FI reported an 89 % increase in the number of identified THB victims who are also asylum seekers. In total numbers, this refers to 89 in 2017 to 169 in 2019. This can also be linked to an increased number of asylum applications in FI (FI). Where data is available, most of the victims are women. Data on the THB victims identified in international protection procedures by form of exploitation was provided only by CY and SK. In CY the reported cases concerned victims of sexual exploitation.

The limited quantitative data on the number of THB victims in asylum procedures does not allow us to make comparisons with the years following the 2015 European refugee crisis.²⁶⁶ In the period 2015-2016, there were only 257 registered cases victims of trafficking in human beings amongst those seeking international protection (95 in 2015 and 162 in 2016).²⁶⁷ However, cases were reported by only six Member States,²⁶⁸ while 7 Member States reported no cases.²⁶⁹ FI (n=111), and IT (n=93) reported most of the cases. Over half (56 %) of the reported cases were victims of trafficking

²⁶¹ [Directive 2011/36/EU](#), Article 8.

²⁶² Europol, European Migrant Smuggling Centre, [4th Annual Report](#), 2020; Europol, [Situational report on trafficking in human beings](#), 2016.

²⁶³ European Parliament, [European Parliament resolution of 16 January 2019 on the situation of fundamental rights in the European Union in 2017 \(2018/2103\(INI\)\)](#), 2019.

²⁶⁴ IOM/ F. David, K. Bryant and J. Joudo Larsen, [Migrants and their vulnerability to human trafficking, modern slavery and forced labour](#), 2019.

²⁶⁵ AT, CY, CZ, EE, FI, HU, LI, LT, RO, SK.

²⁶⁶ The 2015 European migrant crisis was a period characterised by high numbers of people arriving in the European Union overseas from across the Mediterranean Sea Southeast or overland through Southeast Europe.

²⁶⁷ European Commission, [Data collection on trafficking in human beings in the EU](#), 2018.

²⁶⁸ CY, DK, EL, FI, HR, IT, HR.

²⁶⁹ LI, LU, MT, PT, RO, SK, SI.

for sexual exploitation, 12 % for labour exploitation and 32 % for other forms of exploitation. Over half (55 %) of the registered victims were females and nearly two-thirds (64 %) were children.²⁷⁰

Table 5.1 – Number of THB victims seeking international protection

Country	2017				2018				2019			
	Adult		Children		Adult		Children		Adult		Children	
	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male
Czechia	1	0	0	0	0	0	0	0	1	0	0	0
Estonia	0	0	0	0	0	0	0	0	0	0	0	0
Cyprus	7	0	0	0	7	0	0	0	1	3	0	0
Latvia	0	0	0	0	0	0	0	0	0	0	0	0
Lithuania	0	0	0	0	0	0	0	0	0	0	0	0
Hungary	0	0	0	0	0	0	0	0	0	0	0	0
Austria	23	2	0	0	38	5	2	0	N/A	N/A	N/A	N/A
Romania	0	0	0	0	0	0	0	0	0	0	0	0
Slovakia	0	1	0	0	1	0	0	0	0	0	1	0
Finland	89				125				169			

Source: Country reports compiled for this study

In the period 2015-2016, 983 third-country nationals were granted residence permits under the auspices of Directive 2004/81/EC in EU28 countries. In 2015, 490 were granted, and 493 in 2016.²⁷¹ Again, more than half (59 %) of the residence permits were granted to females. The data on residence permits suggests that in some Member States, applicants for international protection who are identified as victims of trafficking in human beings might have decided, or been obliged, to change to procedures for residence as a victim of trafficking in human beings under Directive 2004/81/EC. In this regard, the national rapporteur in Belgium confirmed that one of the challenges in the provision of data on THB victims in international protection procedures is that some of the victims switch to a procedure for residence under Directive 2004/81/EC (BE).

Several Member States noted that the lack of identified THB victims in asylum procedures raises concerns about the effectiveness of the mechanisms for the identification of victims which are in place in such procedures (SI, SK). The discrepancy between the findings of the IOM survey on the prevalence of human trafficking among migrants and refugees on the Central Mediterranean route and official Member States' data on registered victims seeking international protection, also challenges the effectiveness of the mechanisms for identification of victims of trafficking in asylum procedures. At the same time, there is no improvement in terms of availability of data on the number of asylum seekers identified as THB victims, despite EU-wide efforts on improving data collection on trafficking in human beings as a whole. Figure 5.1 depicts an overview of the vulnerabilities and risks at different points during the migration.

²⁷⁰ European Commission, [Data collection on trafficking in human beings in the EU](#), 2018.

²⁷¹ European Commission, [Data collection on trafficking in human beings in the EU](#), 2018.

5.2.2. Effectiveness of identification of VoT

Most Member States have put systems in place to allow victims of trafficking to be detected, identified, and referred to appropriate procedures for international protection.²⁷² By 2014, these standardised practices were outlined in guidelines²⁷³, soft law,²⁷⁴ and legislation (HU). Several Member States, however, have noted that they have not introduced an official National Referral Mechanism for identification and referral to assistance of adult victims of trafficking, but that the relevant immigration and asylum authorities have been trained or received instructions on how to proceed in case of a THB victim (AT, FI, DE). The mechanisms in place in most Member States rely on individual assessment and consist of interview questions aimed at detecting whether there are indicators of trafficking present. These are asked both during the entry interviews and in interviews supporting individuals' asylum claims.²⁷⁵ Some Member States also rely on the distribution of leaflets in different languages on trafficking in human beings (HU, BE). Interviewees noted that some Member States rely on EASO's instruments in identifying vulnerabilities and EASO-approved training programmes for frontline officers on detecting signs of trafficking (BG, EL, EU02). In most Member States,²⁷⁶ the identification of THB victims is done by border and immigration authorities, but in some cases (FR, AT), these are supported by non-governmental organisations.

National research suggested that 18 Member States proactively screen applicants for international protection for indication of trafficking.²⁷⁷ Similarly, an EMN study concluded that half of the Member States either proactively screen all international protection applicants for indicators of trafficking,²⁷⁸ or only the applicants matching a specific profile, for example, women from certain countries and unaccompanied minors (BE, IT, NO). The screening consists of a gathering information about possible victimisation through a series of questions and an assessment of the provided information against specific indicators.²⁷⁹ This screening takes place upon registration, or during the processing of the international protection application.

For example, Austrian law enforcement officers explicitly ask about exploitation during the initial interview in the asylum procedure. Italian authorities only proactively screen certain profiles, which predominantly refers to women from African countries, such as Nigeria, Cameroon, Democratic Republic of Congo, and Guinea. Where proactive screening is not in place, Member States rely on the assumption that the assessment of facts under the international protection procedure will allow for the detection of possible victimisation. In EL and BE, victims are expected to self-report, but officers carrying out interviews are trained to detect signs of exploitation. However, in such cases, the extent to which victims of trafficking are identified depends on the quality of information provided by the migrant and the quality of the training of authorities to detect such cases.²⁸⁰ Even where Member States have put in place systems for proactive screening, their application upon arrival of migrants in hotspots has faced practical challenges.²⁸¹ For example, Greek authorities suggested that the conditions in the entry points, i.e. particularly the islands, and the overall caseload, hardly allows for adequate screening there. While cases may not be detected there, this

²⁷² EMN, [Identification of victims of trafficking in human beings in international protection and forced return procedures](#), 2014.

²⁷³ BE, DE, EE, FI, IE, LU, NO, UK.

²⁷⁴ CZ, EE, ES, IE, LV, NL, NO, SE, SK.

²⁷⁵ BG, CZ, EE, HR, MT, RO.

²⁷⁶ BG, CZ, DE, EL, HR, HU, IT, LU, NL, RO, SK, SL.

²⁷⁷ AT, BG, CZ, DE, EE, FI, HU, IE, IT, LI, LU, MT, NL, PL, PT, RO, SI, SK.

²⁷⁸ EMN, [Identification of victims of trafficking in human beings in international protection and forced return procedures](#), 2014; CY, CZ, DE, ES, FI, LV, MT, NL, SK, UK.

²⁷⁹ EMN, [Identification of victims of trafficking in human beings in international protection and forced return procedures](#), 2014.

²⁸⁰ EMN, [Identification of victims of trafficking in human beings in international protection and forced return procedures](#), 2014.

²⁸¹ EPRS, [Detecting and protecting victims of trafficking in hotspots](#), 2019; OSCE, [From Reception to Recognition: Identifying and Protecting Human Trafficking Victims in Mixed Migration Flows](#), 2017.

could still happen at a later stage though, for example in camps on the mainland, where asylum seekers might feel safer. In Italy, the quality of the training of responsible personnel and the compliance with the adopted guidelines varies significantly across the country. In addition, due to the limited resources available for the provision of support to identified victims, authorities are not always encouraged to proactively identify cases.²⁸²

²⁸² Interview EU02.

Figure 5.1 – Vulnerabilities and risks at different points in the migration process

 <p>Pre-migration</p>	<p>Vulnerability factors</p> <ul style="list-style-type: none"> • Conflicts and crisis situations • Lack of economic opportunities • No legal migration options <p>Risks</p> <ul style="list-style-type: none"> • Migration caused by exploitation taking place in the country of origin • Recruitment with false promises of legal work opportunities
 <p>En route to the EU</p>	<p>Vulnerability factors</p> <ul style="list-style-type: none"> • Migrants are disconnected from support networks • Lack travel documents • Dependency on other for the migration journey logistics • Limited funds <p>Risks</p> <ul style="list-style-type: none"> • Recruitment for human trafficking • Exploitation originating from contracted debt to smugglers
 <p>At destination</p>	<p>Vulnerability factors</p> <ul style="list-style-type: none"> • Inadequate monitoring, security and protection at reception centres • Limited independent finances and lack of opportunities to work • Limited understanding of local norms and legal systems • Lack of trust in local authorities <p>Risks</p> <ul style="list-style-type: none"> • Exploitation by the smugglers / traffickers, who exploited them on route • Recruitment and exploitation by local criminal groups • Harassment and violence caused by fellow asylum seekers/refugees and by intimate partners and or other family members
 <p>On return</p>	<p>Vulnerability factors</p> <ul style="list-style-type: none"> • Trauma and feeling of failure • Debt accumulated on the migration journey • A desire to give impression of wealth acquisition during migration journey <p>Risks</p> <ul style="list-style-type: none"> • Recruitment for human trafficking • Exploitation originating from contracted debt to smugglers

Only 11 Member States have reported that they have introduced gender-specific protocols in place for the identification of victims of trafficking in procedures for international protection.²⁸³ In most cases, these gender specific measures consist of female asylum seekers having the right to choose to be interviewed by a female official (AT, EE, NL, SI). In Austria, a gender sensitive approach is further adopted in the system through the provision of interpreters of the same gender as the asylum seeker (AT). In Belgium, female asylum seekers are systematically provided with a dedicated brochure on the topic, which is available in multiple languages. Where gender specific measures were not reported, Member States noted that the initial asylum interviews are tailored to the respective individuals' profiles and situation, and thus will entail gender considerations (DK, LU, MT).

A national research and an EMN study suggested that many of the Member States have developed different protocols for detection and identification for children.²⁸⁴ Unaccompanied migrant children and minors will in any case be appointed guardianship and afforded special protection measures (CY, DK, PL, SI). Specifically, trained officers are carrying out interviews in a child-friendly environment and manner (BG, EE, BE, NL). When it comes to minors who are victims of THB, all acts undertaken by authorities have to be driven by the best interest of the child,²⁸⁵ giving it the priority above any other interests, which includes criminal justice and investigation interests (BG, SI).

Challenges in the mechanisms for identification of victims in asylum procedures

At the pre-identification stage, migrants are often not sufficiently informed about the consequences of their choice when filling in the reasons for leaving their country of origin.²⁸⁶ The pre-identification form provides information to the interviewing team, but it may also preconditions their subsequent behaviour towards the individual.

Although Member States' mechanisms rely on individual assessments, interviews with migrants often lack a personalised approach and fail to identify specific vulnerabilities and to indicate a need for referral of interviewees for further targeted intervention.²⁸⁷ Interview conditions are also not adequate considering the various challenges (including possible violence) that migrants commonly face on their journey. As noted by Greek authorities, poor reception conditions at entry points might be a reason for failing to detect a THB victim. In addition, limited time and resources also often lead to medical screening only serving to collect identity data and not allowing for vulnerabilities to be detected.²⁸⁸ A report has also suggested that due to unclear referral procedures, a commitment to the principle of confidentiality and a high workload, doctors might be prevented from signalling an indication of trafficking to the competent authorities.²⁸⁹

When a victim of trafficking is detected, the asylum authorities either consult immediately with the authorities competent to officially identify a victim,²⁹⁰ and/or provide assistance without undertaking any further investigation (IT, MT),²⁹¹ or undertake a secondary assessment of suspected

²⁸³ AT, BE, EE, EL, ES, FI, FR, IT, NL, RO, SI.

²⁸⁴ AT, BE, BG, CY, CZ, DE, DK, EE, EL, ES, FI, FR, HU, IE, IT, LT, LU, MT, NL, NO, PT, SE, SI, SL, UK; EMN, [Identification of victims of trafficking in human beings in international protection and forced return procedures](#), 2014.

²⁸⁵ As enshrined in Art. 3(1) of the [Convention on the Rights of the Child \(CRC\)](#) and in Art. 24(2) of the [Charter of Fundamental Rights of the European Union](#).

²⁸⁶ OSCE, [From Reception to Recognition: Identifying and Protecting Human Trafficking Victims in Mixed Migration Flows](#), 2017.

²⁸⁷ EPRS, [Detecting and protecting victims of trafficking in hotspots: Ex-post evaluation](#), 2019; OSCE, [From Reception to Recognition: Identifying and Protecting Human Trafficking Victims in Mixed Migration Flows](#), 2017.

²⁸⁸ EPRS, [Detecting and protecting victims of trafficking in hotspots: Ex-post evaluation](#), 2019.

²⁸⁹ OSCE, [From Reception to Recognition: Identifying and Protecting Human Trafficking Victims in Mixed Migration Flows](#), 2017.

²⁹⁰ AT, CY, EE, EL, ES, IE, LT, LU, NL, PL; EMN, [Identification of victims of trafficking in human beings in international protection and forced return procedures](#), 2014.

²⁹¹ EMN, [Identification of victims of trafficking in human beings in international protection and forced return procedures](#), 2014.

victimisation before consulting with other actors.²⁹² In cases where the identification of presumed victims of trafficking is postponed to a second line contact, relevant information and the identification momentum can be lost.²⁹³ Where the official authority is a law enforcement body, there is a risk of the victim being obliged to 'cooperate' with the authorities, which could be stressful for the applicant.²⁹⁴ Nonetheless, depending on the local context, law enforcement authorities might be the authority most adequately trained in assessing the signs of trafficking.

While most Member States provide specialised training to asylum officers on the detection of victims of trafficking in international protection procedures, such training is often not mandatory and not offered on a regular and frequent basis.²⁹⁵ As a result, not all frontline officers have attended dedicated training on the topic and have a fragmented understanding of the applicable procedures and support services (CY, ES, IT, NL). National research also suggests that in some Member States, social services or NGOs providing support to victims are not sufficiently involved in the identification procedures (CY). At the same time, according to national research carried out in DE, most THB victims seeking international protection have been identified by NGOs.

Once a migrant has been registered at the first-line reception centre, they could be either accommodated in second line reception facilities for asylum seekers, transferred to second line accommodation facilities for further relocation to another EU Member State, or returned to a country of origin when they are considered not to be in need of international protection.²⁹⁶ Various reports have suggested that the existing reception capacities are not adequate to identify and monitor presumed victims of trafficking throughout their stay within the reception facilities.²⁹⁷ In many Member States, specialised facilities for unaccompanied minors and trafficking victims still have not been set up. In some Member States, specialised services for these groups are also lacking or are subject to preconditions, such as cooperation with authorities (BE). At the same time, as noted in the previous section, the conditions of general reception facilities often create conditions for possible re-victimisation. A 2018 European Commission report on Italy noted that services for vulnerable people are no longer provided and that the protection of these people depends on voluntary contributions.²⁹⁸ Meanwhile, in some Member States, no standardised practices for referral of victims to appropriate services exist, in particular in reference to the provision of safe housing. As such, there is a need for greater awareness raising with the authorities in this respect (CY).²⁹⁹

5.3. Conclusions and recommendations

Recent EU legislation provides a holistic framework for the improved identification and protection of victims in international protection procedures. Both the EU Anti-trafficking Directive and the Recast Reception Conditions Directive introduce obligations on Member States to identify and provide immediate assistance to victims of trafficking in human beings. Nevertheless, the low number, i.e. 'dark figure' of registered victims of trafficking in international protection procedures, as well as evidence of practical challenges in the application of mechanisms for detection,

²⁹² BE, CZ, DE, FI, HU, SE, SK, UK, NO; EMN, [Identification of victims of trafficking in human beings in international protection and forced return procedures](#), 2014.

²⁹³ OSCE, [From Reception to Recognition: Identifying and Protecting Human Trafficking Victims in Mixed Migration Flows](#), 2017.

²⁹⁴ EMN, [Identification of victims of trafficking in human beings in international protection and forced return procedures](#), 2014.

²⁹⁵ EMN, [Identification of victims of trafficking in human beings in international protection and forced return procedures](#), 2014.

²⁹⁶ COM (2016) 85 final.

²⁹⁷ EPRS, [Detecting and protecting victims of trafficking in hotspots: Ex-post evaluation](#), 2019; OSCE, [From Reception to Recognition: Identifying and Protecting Human Trafficking Victims in Mixed Migration Flows](#), 2017.

²⁹⁸ ECRE, [Country report for Italy](#), 2018.

²⁹⁹ EMN, [Identification of victims of trafficking in human beings in international protection and forced return procedures](#), 2014; EPRS, [Detecting and protecting victims of trafficking in hotspots: Ex-post evaluation](#), 2019.

identification and referral of trafficking victims in such procedures, suggest that the objectives of the EU Anti-Trafficking Directive have not been fully achieved or actualised. To ensure accurate identification of presumed and potential victims of THB, it has to be ensured that adequate time is allowed for a properly conducted identification of trafficking vulnerabilities by skilled staff, and that first respondents are provided with adequate tools and resources. At the same time, the lack of data on the number of identified THB victims in international protection procedures does not allow a full assessment of the effectiveness of mechanisms for identification adopted by national authorities.

The proper implementation of the EU Anti-trafficking Directive and the EU Asylum Acquis in general may require a strengthening of the provision of information to newly arriving asylum seekers and migrants on their rights, the existing procedures which they will have to follow and on opportunities for obtaining support through lawyers and cultural mediators. While training programmes on THB, as approved by EASO, are available to national authorities, Member States should ensure that such trainings are available to all frontline officers on a regular basis. Further, consideration should be given to offering standardised and/or centralised training. The implementation of the Directive also requires sufficient financial resources for the provision of support to THB victims identified in asylum procedures. Given the fact that many of the vulnerable migrants might still be controlled and share accommodations with traffickers, reception centres should provide conditions that ensure that shared information remains confidential and does not leak to the traffickers.

Only a few Member States have adopted gender-based protocols for the identification of victims. Often, these are limited to the provision of same-sex interviewers and/or interpreters. Therefore, national mechanisms should be further revisited to make sure that procedural rules and tools take account of the gender dimension of trafficking in human beings.

Although law enforcement authorities and mandated anti-trafficking operators dedicate time and resources to the identification of victims of trafficking in available reception facilities, these efforts do not bring tangible results in terms of referral of victims to appropriate services and could get offset by the overall focus on human smuggling. Additionally, during the pre-identification stage, the task of officers dealing with the registration of newly arrived persons is often to differentiate between migrants in need of protection and those that should be subject to return to their countries of origin. Considering this focus of the procedure and the limited resources allocated to the identification of vulnerabilities, the accurate identification of presumed victims of trafficking cannot be ensured.

In this respect, European and national institutions might consider putting in place mechanisms for data collection on THB victims in international protection procedures and ensuring follow up on identified cases in order to improve the evaluation of identification and protection measures. Ensuring that adequate time and resources for identification and protection of THB victims are available to the Member States with the highest number of asylum applications could be beneficial in addressing abovementioned issues. Most Member States still have to adopt gender- and child-specific identification and protection measures. These should not be limited to procedural guarantees during the asylum interviews, but extend to reception conditions and tailored psychological, legal and medical assistance. Specialized facilities for unaccompanied minors and female victims of trafficking should be set up in some Member States as well as ensuring adequate and comprehensive training of all frontline services (border and asylum authorities), covering international humanitarian and human rights standards.

6. Efficiency of the criminal system

Key findings

The Anti-Trafficking Directive, together with the Victims' Rights Directive and Residence Permit Directive, create a legal framework capable of addressing the needs of victims. Progress in its implementation is visible and examples of many good practices can be shown. At the same time, important challenges remain and disquieting patterns can be indicated. Detection and identification of victims remain low, revealing a need for stepping up efforts in encouraging self-reporting and proactive detection practices. While many protection measures have been introduced in Member States, the needs of victims are not sufficiently addressed yet. In particular the needs of migrants with an irregular status and children on the move demand more attention within the system. THB victims – including children, often in the context of migration – are still prosecuted and punished by Member States for offences which they were forced to commit. With low rates of prosecution and conviction among THB offenders, a strong sense of injustice can be created, leading also to secondary victimisation. Research results underscore the risks involved in an uncoordinated and fragmentary response to THB, and underline the need for comprehensive, multidisciplinary cooperation among all involved stakeholders under clear governmental leadership. In various aspects discussed in the chapter, it is not the law, but the practice that required attention, which suggests a continuous need to build the knowledge, expertise and sensibility of those who shape this practice.

Chapter 6 addresses the 'Efficiency of the criminal systems across Member States and prosecution of offenders'. The aim of this chapter is to assess the criminal justice systems across Member States regarding THB. The research focuses on:

- Low identification of victims (6.2.1);
- Prosecution or application of penalties to the victim (6.2.2)
- Protection measures in investigation and proceedings (6.2.3)
- Reliance on victim's testimony and cooperation (6.2.4)
- Prosecution of THB as other crimes (6.2.5)
- Low prosecution and conviction rates of offenders (6.2.6);
- Cross-cutting need for increased expertise and specialisation (6.2.7).

As described in earlier chapters, this area has been researched through both desk research as well as the new data from EU Member States interviews.

6.1. Context

The Anti-Trafficking Directive aims to make a positive difference in the lives of victims and step up the fight against THB by increasing the number of prosecutions and convictions. While all its provisions are, in one way or another, important for the efficiency of the criminal system and prosecution of perpetrators, Article 9 specifically foresees provisions on investigation and prosecution. Further, Articles 11-16 concern provisions for assistance and protection. Articles 12 and 15 specifically focus on protection of victims and child-victims in criminal investigation and proceedings aiming, among others, at preventing secondary and repeat victimisation. The provisions of the Anti-Trafficking Directive have to be read together with other EU laws, in particular the Victims' Rights Directive and the Residence Permit Directive, as well as in the light of various policy documents.

Chapter 6 seeks to identify, through the lens of migration and gender, the improvements and remaining challenges in the implementation of the Anti-Trafficking Directive which influence criminal justice systems across Member States. It focuses on determining the current patterns and trends in relation to identification of victims and their participation in proceedings, as well as investigation, prosecution, and conviction of THB offenders. The chapter also attempts to pinpoint

obstacles in the implementation of the Anti-Trafficking Directive which affect the efficiency of Member States' criminal justice systems and prosecution of offenders. Alongside identifying the remaining possible barriers, the chapter will include evidence-informed recommendations that will assist in alleviating, or at least minimising, the possible barriers both at the national and EU-levels. We will explore whether anything could be done to fill the gaps and address process limitations, but also showcase good practices which increase the efficiency of Member States' criminal justice systems and prosecution of offenders.

6.2. Research findings

6.2.1. Low prosecution and conviction rates

Trafficking in human beings profits from a hidden and invisible nature of victimisation.³⁰⁰ Low numbers of identified victims have been a repeatedly observed pattern,³⁰¹ which negatively affects the efficiency of the criminal justice system and the prosecution of perpetrators. Current research shows that the identification of victims and underreporting remain a common challenge among Member States.³⁰² Various reasons, most of which are not new, were reported at Member State level to have contributed to this pattern. While Member States have taken actions to improve their effectiveness, much can and should still be done to improve identification.

An assessment of improvements in relation to identification of victims is hindered by significant limitations of data comparability over time and between Member States. Consequently, drawing any type of conclusions proves challenging. The most recent EU data collection for the period 2015 to 2016 notes that 'while there might appear to be an increase in victims from 2015 to 2016, the data does not support the conclusion that there is a significant change' although 'slightly more Member States reported an increase in registered victims of human trafficking in 2016 than a decrease'.³⁰³ With a number of caveats made by CoE's GRETA, its data on identified victims collected from CoE's 42 Member States shows an increasing trend in the number of identified victims (up 44 % between 2015 and 2018) and 'the countries which accounted for the highest number of victims (presumed and formally identified) were the United Kingdom, France, Italy, the Netherlands and Romania'.³⁰⁴ Some Member States, such as e.g. France, individually report improvement in identification of victims.

Limited self-reporting among victims of trafficking, stemming from varied reasons, continues to contribute to the overall challenge of early identification.³⁰⁵ For instance, Europol observed that: 'Some of the trafficking victims are not aware of their situation to constitute exploitation, since many still perceive it as chance for a better life and/or to support their families back in their home country. In addition, the dependence of the victims on the OCGs [organised criminal groups] due to their frequently insecure residence status, the loyalty that often exists due to family relations, and the violence enacted by the OCGs to enforce group discipline, make it unlikely for the victims to report

³⁰⁰ A. Farrell and B. Kane, [Criminal Justice System Responses to Human Trafficking](#), in: Winterdyk, J., Jones, J. (eds.), *The Palgrave International Handbook of Human Trafficking*, 2020.

³⁰¹ European Parliament, [European Parliament resolution of 12 May 2016 on the implementation of the Directive 2011/36/EU of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims from a gender perspective](#), 2015/2118(INI); European Parliament, [Trafficking in Human Beings from a Gender Perspective: Directive 2011/36/EU. European Implementation Assessment](#), 2016; A. Bosma and C. Rijken, [Key Challenges in the Combat of Human Trafficking: Evaluating the EU Trafficking Strategy and EU Trafficking Directive](#), *New Journal of European Criminal Law*, 7(3), 2016, pp.315–330.

³⁰² See e.g. [SWD \(2018\) 473 final](#)

³⁰³ European Commission, [Data collection on trafficking in human beings in the EU](#), 2018.

³⁰⁴ Council of Europe, [9th General Report on GRETA's activities](#), 2020, p.52.

³⁰⁵ Europol, European Migrant Smuggling Centre, [4th Annual Report](#), 2020, p.22; Country reports for: DE, FI, IT; interview FI01.

their initiative to authorities. In that regard, it is also not uncommon for OCGs to provide stories for victims to tell if approached by police or other authorities.³⁰⁶

Research on Member States confirms that a lack of self-identification remains one of the key challenges in early identification.³⁰⁷ For migrant victims entering the EU, the encounter with border guards or police at the EU border constitutes the first opportunity for early identification.³⁰⁸ However, as noted by some interviewed respondents, this is a moment at which many victims do not yet know that they will be exploited (EU03, PL01).³⁰⁹ On top of that, the time available for identification is short, whereas the identification itself requires knowledge and experience. Further, representatives of some migrant communities might be less prone due to cultural reasons to recognise debt bondage as an element of exploitation, being convinced that the individuals in question owe something to their exploiters (PL03). The reported lack of recognition among victims of their own victimisation suggests,³¹⁰ among other observations, a continuous need for awareness-raising actions targeted at victims or potential victims in Member States. The border crossing could and should be one of the places when such awareness-raising activities take place on a continuous and consistent basis.

Research also shows that fear of or attachment to perpetrators,³¹¹ as well as loyalty towards family members who are offenders (AT, BG, CZ), play a role in reducing self-reporting and, more generally, in limiting the victims' willingness to cooperate with law enforcement bodies.³¹² There is evidence that the situation of illegal migration exacerbates dependence on OCGs, but also increases the risk of being exposed to violence. According to Europol, 'Victims originating from outside the EU are still routinely subjected to violence, debt bondage, passport confiscation and other forms of coercion as an integral part of trafficking modus operandi.'³¹³

The fear of violence particularly affects victims of trafficking for sexual exploitation, i.e. in an overwhelming majority women and children. For victims of Roma origin, family ties with perpetrators have been reported as a strong factor preventing them from self-reporting, severing the bond with oppressors, and cooperating with law enforcement bodies (AT). The dependence on and fear of perpetrators, including OCGs, emphasise the importance of increasing guarantees of victims' safety and opportunities for victims to sever their ties with offenders. It further highlights the crucial role of assistance, support and protection measures as foreseen in the Anti-Trafficking Directive, but also the recovery and reflection period, as provided in the Residence Permit Directive.³¹⁴ The challenges in the implementation of these provisions identified in this report slow down the process of creating a safe environment for victims to report THB and cooperate with the authorities (see sub-chapter 6.2.2-6.2.4).

³⁰⁶ Europol, European Migrant Smuggling Centre, [4th Annual Report](#), 2020.

³⁰⁷ Country reports for CY, CZ, DE, IE, NL, SK; interviews NL02, NL03.

³⁰⁸ During the research conducted by Ośrodek Badań Handlu Ludźmi, 61 % of 139 interviewed border guards considered the border check to be the moment when a border guard can identify a victim; Z. Lasocik and Ł. Wiczorek (ed.) [Tworzenie nowej jakości w systemie eliminowania handlu ludźmi w Polsce – raport z badań](#), Ośrodek Badań Handlu Ludźmi, Uniwersytet Warszawski, 2016, p.68.

³⁰⁹ Z. Lasocik and Ł. Wiczorek (ed.) [Tworzenie nowej jakości w systemie eliminowania handlu ludźmi w Polsce – raport z badań](#), Ośrodek Badań Handlu Ludźmi, Uniwersytet Warszawski, 2016, p.68.

³¹⁰ See also e.g. S. Rodríguez-López, Telling Victims from Criminals: Human Trafficking for the Purposes of Criminal Exploitation, 2020, p.308. In: Winterdyk, J., Jones, J. (eds.). [The Palgrave International Handbook of Human Trafficking](#); and studies quoted therein.

³¹¹ Country report for: BG, CY, CZ, DK, DE, IE, IT, NL, SE.

³¹² In general, the unwillingness of the victim to cooperate was specifically noted in country reports for: AT, BG, CY, CZ, IE, LT, NL, SK.

³¹³ Quoted after [SWD \(2018\) 473 final](#), p.25.

³¹⁴ [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, 2014.

Victims' negative perceptions of the authorities in Member States, particularly law enforcement agencies, constitute another factor in limiting self-reporting.³¹⁵ In the migration context, the trepidation can be related to unpleasant experiences in contacts with authorities in the country of origin (ES01). However, negative perceptions may also stem from the concern about criminal liability,³¹⁶ in particular in the case of irregular migrants, persons trafficked for the purpose of forced criminality, but also THB victims involved in prostitution where the latter is illegal (e.g. HU, BG). Evidence shows that these perceptions could be reinforced by the shortcomings in the implementation of Article 8 of the Anti-Trafficking Directive among Member States (see sub-chapter 6.2.2.).

In case of migrants in an irregular situation, who are among the most vulnerable group to fall victim to THB, fear of deportation to the country of origin plays a significant role in not coming forward.³¹⁷ The migration policies of Member States, geared towards fighting illegal migration, can largely be credited with producing this sort of a 'chilling effect' among vulnerable migrants. They also give perpetrators additional leverage to exploit victims with an irregular status, effectively tightening the exploitation cycle.³¹⁸ For this reason, recommendations have been formed to decouple migration-enforcement actions from law-enforcement activities. The recent PICUM report recommends adoption of: 'Explicit policies, enforceable through disciplinary action, whereby people who come forward to report crime (witnesses and victims) or to seek protection or support: [d]o not face immigration penalties, including the risk of deportation or return, either directly by the police or as a result of information transferred from the police to immigration authorities other than for exclusively protection reasons (i.e., creation of a 'firewall') [...]'.³¹⁹

To counter the distrust among migrants with an irregular status and properly respond to the vulnerabilities of this group, Member States should also improve the implementation of available legal solutions, in particular the granting of a recovery and reflection period, and residence permits for THB victims (see also sub-chapter 6.2.3).

³¹⁵ National Institute of Justice/ A. Farrell, J. McDevitt, S. Fahy, [Understanding and Improving Law Enforcement Responses to Human Trafficking: Final Report](#), 2008, p.83-84; S. Rodríguez-López, Telling Victims from Criminals: Human Trafficking for the Purposes of Criminal Exploitation, 2020, p.312. In: Winterdyk, J., Jones, J. (eds.). [The Palgrave International Handbook of Human Trafficking](#).

³¹⁶ Not unjustified as we discuss below. See also e.g., C. Villacampa and N. Torres, [Human trafficking for criminal exploitation: Effects suffered by victims in their passage through the criminal justice system](#), *International Review of Victimology*, 25(1), 2019, pp.3–18.

³¹⁷ See e.g. FRA, [Protecting migrant workers from exploitation in the EU: workers' perspectives](#), 2019, p.78; A. Farrell and B. Kane, Criminal Justice System Responses to Human Trafficking, 2020. In: J. Winterdyk, J. Jones (eds.) [The Palgrave International Handbook of Human Trafficking](#).

³¹⁸ PICUM, [Insecure justice? Residence permits for victims of crime in Europe](#), 2020.

³¹⁹ PICUM, [Insecure justice? Residence permits for victims of crime in Europe](#), 2020; F. Crépeau, and B. Hastie, [The Case for 'Firewall' Protections for Irregular Migrants: Safeguarding Fundamental Rights](#), *European Journal of Migration and Law*, Vol. 2-3, 2015, pp.157-183.

Some good practices from Denmark can be highlighted, which are supporting self-identification among victims of THB for the purpose of sexual exploitation. As reported by CoE's GRETA, the Danish Centre Against Human Trafficking (CMM) together with the NGO Nest International run a drop-in

In its report on 'Protecting migrant workers from exploitation in the EU: workers' perspectives' published in 2019, FRA recalls:

'A focus group participant stated that workers in an irregular situation were visible when doing something wrong, but they did not exist when it came to securing their rights. This kind of fear was also an issue with workers who had sought support. An interviewee who reported his case to a lawyer and a victim support organisation said that he felt psychologically worse off after reporting, as he was scared that someone would call the police, who would then expel him.'

centre in the red light district.³²⁰ While providing 'advice and anonymous medical care to vulnerable women working in prostitution', the centre also 'serves the purpose of establishing first contact with potential victims of human trafficking and thus helps the identification of victims.'³²¹ GRETA also reported that the CMM 'developed a folder with information on indicators of THB for the purpose of sexual exploitation and on how to get assistance' which was widely distributed, e.g. in massage parlours, health clinics and mobile health services.³²² It must be noted, however, that the Danish approach to identification was strongly criticised by GRETA as being focused on illegal migration and fast-tracking returns, and consequently providing 'very little

incentive for self-identification by victims.'³²³

Overemphasis on self-reporting effectively shifts the burden of identification towards the victim, although it is Member States who carry the responsibility for early identification. While self-reporting facilitates the work of the criminal justice system, its low level does not explain the shortcomings in the identification of victims across Member States.³²⁴ In Article 11 (4), the Anti-Trafficking Directive obliges 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. Member States have taken several measures to improve identification through the establishment of formalised and non-formalised national referral mechanisms (NRMs),³²⁵ the adoption of procedures or tool guiding identification processes (e.g. BG, CY, EE, ES, FI, HR, HU)³²⁶ and, most often, training of professionals.³²⁷ However, evidence suggests that these actions do not in all Member States appropriately acknowledge the gender and migration dimensions of THB, or it is not clear to what extent they actually do that. In some Member States, the gender and migration dimensions have been reported as missing from adopted identification procedures or tools (CZ, DK, FI, LV).

In light of the numbers of identified victims, GRETA has repeatedly recommended that various Member States step up their efforts towards increasing detection and identification (e.g. BE, BG, FI, HR, HU).³²⁸ In particular, it saw the need to increase attention on the identification of THB victims among foreign nationals, asylum seekers and persons placed in immigration detention (e.g. AT, BG,

³²⁰ GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Denmark: Second Evaluation Round](#), 2016.

³²¹ Ibid, paragraph 82.

³²² GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Denmark: Second Evaluation Round](#), paragraph 83.

³²³ Ibid, paragraph 87.

³²⁴ Council of Europe (2020). [9th General Report on GRETA's activities](#), 2020, paragraph 133.

³²⁵ [SWD \(2018\) 473 final](#). New detailed information on NRMs was collected as part of the 'Study on reviewing the Functioning of Member States' National and Transnational Referral Mechanisms' conducted by Ecorys for the European Commission. However, the report has not yet been published.

³²⁶ Based on the most recent GRETA evaluation reports concerning the listed Member States, as available on 21 July 2020.

³²⁷ Country reports for: AT, BE, BG, EE, EI, FR, HR, LU, MT.

³²⁸ Based on the most recent GRETA evaluation reports concerning the listed Member States, as available on 21 July 2020.

CY, HR, HU).³²⁹ It also repeatedly noted problems related to the identification of child victims of THB, including in the context of migration. During its second evaluation round, it 'fully urged' 15³³⁰ and 'partially urges' seven³³¹ EU Member States 'to take measures in order to improve the identification of child victims of trafficking, including by setting up a specific identification and referral mechanism.'³³² Some Member States have indeed adopted specific documents related to identification of children, such as AT and ES. For example, in 2016, Austria adopted guidelines for the identification of and interaction with potential victims of child trafficking,³³³ while in Spain, the framework protocol for the protection of victims of THB contains a separate annex on 'Actions for the detection and care of victims of trafficking in human beings who are minors.'³³⁴ However, challenges in this respect persist.

Research shows the need among Member States to engage in proactive identification, for example through regular checks in designated locations, but to also place more emphasis on community policing rather than strict law enforcement, as well as cooperation between authorities and CSOs to increase outreach among vulnerable communities. Some of the law enforcement agencies of Member States show more proactive approaches to the identification of victims than others. For example, as reported by GRETA, in Austria, 'the Federal Criminal Police inspects all brothels once a month and during the inspections, particular attention is said to be paid to detecting possible victims of THB, through carrying out individual interviews with sex workers.'³³⁵ Slovak authorities, in turn, monitor sex clubs and night clubs, however, so far they had limited success in identifying victims. Since 2017, Slovak authorities have also proactively investigated and prosecuted forced marriages based on Roma 'common law' traditions, where families or 'mediators' organise a child marriage between two minors from the Roma community (SK). In relation to Estonia, CoE's GRETA was informed that the police were utilising an IT tool for screening internet-based announcements of offers of sexual services and approached persons proposing such services to establish whether cases of THB for sexual exploitation or other related crimes were taking place.³³⁶

6.2.2. Prosecution or application of penalties to victims

Article 8 of the Anti-Trafficking Directive requires Member States to take the necessary measures to ensure that competent national authorities are entitled not to prosecute or impose penalties on THB victims for their involvement in criminal activities which they have been compelled to commit as a direct consequence of being subjected to THB. The provision does not constitute a decriminalisation clause and has been considered relatively weak in terms of its binding nature.³³⁷ Nevertheless, its appropriate application can contribute to increasing THB victims' trust in the law enforcement and justice systems, which can work towards addressing the problem of limited self-reporting.

³²⁹ Based on the most recent GRETA evaluation reports concerning the listed Member States, as available on 21 July 2020.

³³⁰ AT, BG, CY, DK, ES, FR, HR, HU, IT, LU, LV, MT, PT, SI, SK.

³³¹ BG, DE, FI, LT, PL, RO, SE.

³³² Council of Europe, [9th General Report on GRETA's activities](#), 2020.

³³³ Federal Ministry for Families and Youth, [Handlungsorientierungen zur Identifizierung von und zum Umgang mit potenziellen Opfern von Kinderhandel](#), 2016.

³³⁴ Observatorio de la Infancia, [Actuaciones para la detección y atención de víctimas de trata de seres humanos menores de edad, Anexo al Protocolo marco de protección de víctimas de TSH](#), 2017.

³³⁵ GRETA, [Evaluation report. Austria. Access to justice and effective remedies for victims of trafficking in human beings](#), 2020, paragraph 199.

³³⁶ GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Estonia: First evaluation round](#), 2018.

³³⁷ Thb Coop to Fight [The Fight Against Trafficking In Human Beings In Eu: Promoting Legal Cooperation And Victims' Protection](#), 2016, pp.243-244.

In its 2016 transposition report,³³⁸ the European Commission observed that Member States took diverse measures to ensure that vested national authorities are entitled not to prosecute or impose penalties on THB victims for their involvement in criminal activities. Some Member States made explicit reference to the non-prosecution of trafficking victims.³³⁹ Other Member States more generally foresaw the non-prosecution of a person who was compelled, threatened, or coerced into committing a criminal act.³⁴⁰ Also in 2016, the EPRS noted that victims of trafficking engaged in prostitution were reported to be often criminalised (in BG, and ES), as well as TCN victims who are treated as illegal migrants.³⁴¹

Research in Member States shows that some new developments have taken place since the Commission's examination to explicitly enshrine non-punishment provisions in Member States' legal systems. In 2017, the Austrian Federal Ministry for Justice issued a decree addressed to prosecutors and to district and regional courts explaining the implementation of the principle of non-punishment of THB victims in Austrian criminal law. Also, in April 2017, the Federal Chancellery issued a circular on the implementation of the non-punishment provision in the context of administrative law (AT01). On 25 April 2019, Belgium adopted a bill on the principle of the non-punishment of victims of human trafficking. Further, on 1 July 2020, Hungary introduced a law that includes a non-punishment provision and a general protection measure for child victims of THB.

Evidence on the positive application of such non-prosecution or non-punishment provisions for THB victims has been identified among Member States. For example, an interviewee in Croatia reported that sanctioning the victim has never happened in practice, even though the system only uses the principle of necessity (HR02). Additionally, as recounted by an interviewee in Cyprus, between 2015-2020, ten cases of THB victims were not prosecuted for offences they had committed as a result of their victimisation (CY03).³⁴² Meanwhile in 2018, Slovenia dealt with a case in which 32 THB victims were forced to commit fraud. As reported by a Slovenian interviewee, criminal proceedings were conducted only against members of the criminal group, all of whom were convicted of THB, while all 32 victims returned to their home country after being heard in court (SI03). While this is certainly a good practice example, there are indications that it may not yet be a consistent practice, as GRETA was informed by NGOs that in one case of forced begging, 40 persons were fined, had to leave the country and were forbidden to come back to Slovenia.³⁴³

Despite commendable practical examples and the fact that provisions allowing for non-prosecution or non-punishment of victims are increasingly available, victims are still often subjected to criminal charges and convictions, and are thereby essentially being re-victimised.³⁴⁴ The legal solutions sometimes do not offer sufficient clarity and are open to interpretation,³⁴⁵ they may be difficult to apply in practice, (e.g. BG) or have limited scope.³⁴⁶ The evidence suggests that when prostitution is illegal, victims or potential victims of THB for sexual exploitation – who are in an overwhelming majority women and girls – may be more exposed to additional punishment by the state.

³³⁸ [COM\(2016\) 722 final](#).

³³⁹ The European Commission noted this in relation to: BG, CY, EL, ES, LT, LU, LV, MT, NL, RO, SK, UK.

³⁴⁰ The European Commission noted this in relation to: HU, IT, PL, PT, SE, SI.

³⁴¹ EPRS, [Trafficking in Human Beings from a Gender Perspective: Directive 2011/36/EU: European Implementation Assessment](#), 2016, p.18.

³⁴² In this regard, the most recent [2020 evaluation report of Cyprus by GRETA](#) notes in § 92: 'The Cypriot authorities reported that no identified victims of THB for the purpose of forced criminality have been convicted for offences they were compelled to commit, and that there were nine cases in the period 2015-2018 where victims of trafficking were not prosecuted for offences they had committed.'

³⁴³ GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Slovenia: Second Evaluation Round](#), 2018, paragraph 162.

³⁴⁴ Country reports for: DE, FI, FR, HU, IE, IT, RO, SE.

³⁴⁵ E.g. country reports for: CZ, EE, IE, NL.

³⁴⁶ E.g. country reports for: IT, RO, SK.

CoE's GRETA has made both 'full urges'³⁴⁷ and 'partial urges'³⁴⁸ towards EU Member States with respect to the application of non-punishment clauses. A 'full urge' means that there is no specific legal provision or guidance on the non-punishment provision, and there are indications that THB

'So, I was the victim, and they [the authorities] said 'You are the culprit', and nothing was done to the bosses; they take money and they sleep at night.'

(Belgium, male interviewee from Southern Asia, retail, regular migrant)

Source: FRA, [Protecting migrant workers from exploitation in the EU: workers' perspectives](#), 2019.

victims are punished for unlawful activities committed by them while they were under the control of their traffickers.³⁴⁹ GRETA has also repeatedly noted that the absence of a specific provision on the non-punishment of THB victims entails a risk of differential treatment, depending on the prosecutor in charge of the case.³⁵⁰

To illustrate some of the challenges observed in this research, the Italian legal framework provides that an individual is not punished for offences committed

under violence or threat. This applies to THB victims who are forced to commit unlawful acts, however, this only applies 'as long as the victim has been officially identified as such and exploitation has been proven in a criminal procedure against the traffickers.'³⁵¹ This leaves (potential) victims at risk of prosecution and conviction, if the traffickers are not convicted first.³⁵² Italian NGOs have repeatedly reported that victims are often convicted of offences when exploitation is not proven. Non-punishment is frequently not applied when it comes to offences such as illegal entry in the territory, which is often inherent to being trafficked.³⁵³ Further, in terms of interpretational difficulties, Article 16a of the Bulgarian Criminal Code refers to non-prosecution, but it is questionable whether its application is effective. Evidence suggest that it is difficult to prove coercion over the victim, which is a requirement. Additionally, it is apparently often the case that victims are arrested on charges of 'immoral activities' under the obsolete Article 329 of the Criminal Code (BG03). Additionally, NGOs in Germany provide evidence that, in cases of breaches of the Residence Act by victims of THB for the purpose of sexual exploitation, the non-punishment provision is sometimes applied, but this is not the case when it comes to THB for the purpose of forced criminality, such as drug trafficking or fraudulently obtaining social benefits.³⁵⁴ Finally, in Latvia, although the Administrative Code releases THB victims from administrative liability, those involved in prostitution in Riga have been punished with fines. Similarly, THB victims have been fined by the Office of Citizenship and Migration Affairs (LV02).

In some countries, evidence suggest that children, often in the context of migration, are also punished for offences committed under duress exerted by traffickers (e.g., FR, HU, IT). Some of the identified cases are not only failures to implement the victim-centred approach enshrined in the Anti-Trafficking Directive, but most of all violations of human rights. GRETA noted that in France, civil society stakeholders reported numerous examples of THB victims, including children, being

³⁴⁷ Including towards the following EU Member States: AT, FR, HU, IE, IT, PT, SE, SI.

³⁴⁸ Including towards the following EU Member States: FI, LV.

³⁴⁹ Council of Europe, [9th General Report on GRETA's activities](#), 2020.

³⁵⁰ GRETA, [Evaluation report. Cyprus. Third evaluation round. Access to justice and effective remedies for victims of trafficking in human beings](#), 2020; GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Czech Republic: First Evaluation Round](#), 2020.

³⁵¹ GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Italy: Second Evaluation Round](#), 2018, p.58.

³⁵² United States Department of State, [Trafficking in Persons Report](#), 2019, p.259.

³⁵³ GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Italy: Second Evaluation Round](#), 2019, p.59.

³⁵⁴ GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Germany: Second Evaluation Round](#), 2019, p.52.

imprisoned.³⁵⁵ In Italy, interviewees reported that child victims of THB are often prosecuted in spite of their condition as victims (IT02, IT03). GRETA recalled cases of Egyptian and Senegalese boys detained in Italy on people smuggling charges, despite themselves being smuggled or trafficked, and put in charge of the boats by perpetrators.³⁵⁶ Cases were also identified in Sweden of unaccompanied or separated children and young adults, primarily from Afghanistan and Morocco, who were apprehended for petty crimes or drug dealing, and treated as offenders despite strong THB indicators. Additionally, until the legislative changes introduced in 2020, punishing children for smaller crimes committed under coercion from adults, including prostitution as a result of exploitation, was an observable practice in Hungary.³⁵⁷

Apart from possible legal ambiguities, failure by Member States to apply non-prosecution or non-punishment provisions should also be seen in light of the ineffective identification processes (see also sub-chapter 6.2.1). In a study which included interviews with 45 migrant women held in two Spanish penitentiary centres, its authors reported the existence of ten potential THB victims who had not been identified.³⁵⁸ As the researchers observe, the risk of prosecution and conviction for criminal activities is particularly pertinent for victims of THB who are often children and women. As underlying reasons for non-identification, the study notes the fairly new character of THB for forced criminality and a related lower awareness among criminal justice system professionals, resulting in victims being 'mistakenly viewed as having chosen to engage in criminal behaviour.'³⁵⁹ In relation to Finland, GRETA noted that 'the circumstances of the offence or the defendant's personal situation have led the National Rapporteur to suspect that the persons sentenced to imprisonment had been forced to commit the offence as a result of being trafficked, and that the perpetrator had abused their vulnerable situation, young age, addiction or ethnic origin.'³⁶⁰

To sum up, Member States have legal provisions which allow the authorities not to prosecute or punish THB victims. However, their practical application still leads to victims, both adult and children being punished, including with imprisonment. This can reinforce distrust towards the respective criminal justice system and produce serious human rights violations. Lack of clarity in adopted legal provisions and deficiencies of identification processes negatively influence the implementation of Article 8 across Member States. Thus, it is worth reiterating GRETA's recommendations on the need for specific non-prosecution or non-punishment provisions or, in the absence of such, for the adoption of guidelines which would clarify the application of more general legal solutions, such as 'duress' or 'necessity', in cases of THB victims.

³⁵⁵ GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by France: Second Evaluation Round](#), 2017, p.63.

³⁵⁶ GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Italy: Second Evaluation Round](#), 2019, paragraph 237.

³⁵⁷ See, V. Sebhelyi, and D. Varga-Sabján, Az emberkereskedelem kérdésére adó szakpolitikai válaszok Magyarországon az Európai Unió iránymutatásainak tükrében [*Policy responses to human trafficking in Hungary in light of the guidelines of the EU*]. In: B. Juhasz, (ed.). A Magyar Női Érdekérvényesítő Szövetség Közpolitikai Ajánlásai, 2016, pp.120–163. Budapest: Magyar Női Érdekérvényesítő Szövetség; Zs. Vidra, K. Baracsi, N. Katona, V. Sebhelyi, [Child Trafficking in Hungary: Sexual Exploitation, Forced Begging and Pickpocketing](#). Central European University, Center for Policy Studies (CEU CPS), 2015.

³⁵⁸ C. Villacampa and N. Torres, [Trafficked Women in Prison: The Problem of Double Victimisation](#). European Journal on Criminal Policy and Research, 2015; quoted after S. Rodríguez-López, Telling Victims from Criminals: Human Trafficking for the Purposes of Criminal Exploitation, 2020, p.308. In: Winterdyk, J., Jones, J. (eds.). [The Palgrave International Handbook of Human Trafficking](#).

³⁵⁹ C. Villacampa and N. Torres, [Trafficked Women in Prison: The Problem of Double Victimisation](#). European Journal on Criminal Policy and Research, 2015; quoted after S. Rodríguez-López, Telling Victims from Criminals: Human Trafficking for the Purposes of Criminal Exploitation, 2020, p.308. In: Winterdyk, J., Jones, J. (eds.). [The Palgrave International Handbook of Human Trafficking](#).

³⁶⁰ GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Finland: Second Evaluation Round](#), 2019, p.39, footnote 98.

6.2.3. Protection measures in investigation and proceedings

By providing appropriate assistance, support and protection before, during and for a period after the conclusion of criminal proceedings, the Anti-Trafficking Directive aims to give effect to the human rights of THB victims. It reflects the EU's victim-centred approach to THB.

As such, the Anti-Trafficking Directive has to be read together with the Victims' Rights Directive³⁶¹ and the Residence Permit Directive.³⁶² By responding to victims' needs and vulnerabilities,³⁶³ the Anti-Trafficking Directive also aims at encouraging THB victims to cooperate with the authorities and, consequently, at increasing prosecution of THB perpetrators to end their impunity. While several articles in the Anti-Trafficking Directive concern assistance, support and protection, Articles 12 and 15 specifically relate to the protection of THB victims in connection to criminal investigation and proceedings. These two articles, as directly linked to the criminal justice system, will be presented in more detail below.³⁶⁴ The authors of this study also decided to discuss two issues which go beyond those two articles, namely interpretation and translation, as well as the recovery and reflection period. These are of particular importance for an appropriate implementation of the Anti-Trafficking Directive in light of the wider EU acquis on justice and fundamental rights, in particular with respect to victims who are migrants.

Access to interpretation and translation

Migrant victims often experience a language barrier in the country of their exploitation, which adds to their isolation and compounds difficulties in claiming rights. This underscores the frequently essential role of translation and interpretation in guaranteeing access to rights and, more broadly, to justice.³⁶⁵ The Anti-Trafficking Directive foresees in Article 11(5) that '[t]he assistance and support measures [...] shall be provided on a consensual and informed basis, and shall include at least [...] counselling and information, and translation and interpretation services where appropriate.' In Article 11(1), it provides that 'Member States shall take the necessary measures to ensure that assistance and support are provided to victims [...] in order to enable them to exercise the rights set out in Framework Decision 2001/220/JHA, and in this Directive.' The Victims' Rights Directive, which replaced the Framework Decision 2001/220/JHA, foresees that all victims have, among others, the right to understand and be understood (Article 3) and the right to interpretation and translation (Article 7). Recital 34 of the Victim's Rights Directive specifies that: '[i]nterpretation should [...] be made available, free of charge, during the questioning of the victim and in order to enable them to participate actively in court hearings, in accordance with the role of the victim in the relevant criminal justice system. For other aspects of criminal proceedings, the need for interpretation and translation can vary depending on specific issues, such as the role of the victim in the relevant criminal justice system and his or her involvement in proceedings and any specific rights they have. As such, interpretation and translation for these other cases need only be provided to the extent necessary for victims to exercise their rights.'

While provisions for interpretation and translation are largely available in Member States, data analysed during the research shows that availability of interpretation and translation (e.g. EE, FI, SE),

³⁶¹ [Directive 2012/29/EU](#).

³⁶² [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.

³⁶³ GRETA, [Assistance to victims of human trafficking. Thematic Chapter of the 8th General Report on GRETA's activities](#), 2019, p.5.

³⁶⁴ For discussion of assistance and support, please see Chapter 4 of this research paper.

³⁶⁵ Council of Europe, [8th General Report on GRETA's Activities, focusing on provision of assistance to victims of human trafficking](#), 2019, p.8.

their quality (e.g. FI, SE) and confidentiality (e.g. FI) constitute some of the challenges in THB cases.³⁶⁶ For example, specialised NGOs in Estonia reported to GRETA that 'the lack of interpretation and translation services was an acute problem, often resulting in

Good practice examples:

In the Netherlands, CoMensha administers a state-financed fund for translation services for THB victims, in addition to general provisions concerning translation services in the care system.³⁶⁷

missing procedural deadlines and failure to initiate criminal proceedings.³⁶⁸ In Sweden, municipal authorities were concerned with the lack of interpreters available for unaccompanied and separated migrant and asylum-seeking children. The varying standards of interpretation, adding to the difficulties in effectively communicating with children, were also considered a problem.³⁶⁹ In Finland, GRETA reported concerns about

access to professional interpreters in some languages and confidentiality of the service.³⁷⁰ The provision of interpretation and translation to THB victims has to be seen in a broader context of the guarantees available in this respect to all victims in the EU. The recent European Commission report on the Victims' Rights Directive found shortcomings in the transposition of Articles 3 and 7 in the majority of Member States.³⁷¹ These will inevitably also concern THB victims.

Recovery and reflection period

The Anti-Trafficking Directive does not contain specific provisions on the recovery and reflection period for THB victims other than Article 11(6), which foresees that information provided to THB victims shall also cover, where relevant, information on the recovery and reflection period based on the Residence Permit Directive. The latter, in Article 6(1), obliges Member States to 'ensure that the third-country nationals concerned [i.e. THB victims – author's note] are granted a reflection period allowing them to recover and escape the influence of the perpetrators [...] so that they can take an informed decision as to whether to cooperate with the competent authorities.' The Residence Permit Directive does not provide the period's minimum duration or a starting point to that end. Instead, these should be determined according to national laws. However, all Member States are parties to the CoE's Convention on action against trafficking in human beings, which provides that the recovery and reflection should last at least 30 days and should be granted when there are reasonable grounds to believe that the person concerned is a THB victim (Article 13). Since during the recovery and reflection period no expulsion order can be enforced (Article 6(2) of the Residence Permit Directive), early access to it is of particular importance to TCNs, especially to those with an irregular status. Although the Residence Permit Directive concerns TCNs, it should, in the spirit of the victim-centred approach, but also according to CoE's GRETA, be available to all foreign victims, including EU nationals.³⁷²

In the majority of Member States, provisions on recovery and reflection periods were included in national legislation. However, some Member States adopted different solutions (AT, IE, IT). In Austria, the recovery and reflection period is regulated in the 'Handbook on Aliens Act', which is an internal

³⁶⁶ Based on the most recent GRETA evaluation reports concerning the listed Member States, as available on 21 July 2020.

³⁶⁷ For more in-depth information: GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Netherlands: Second Evaluation Round](#), 2018, paragraph 129.

³⁶⁸ GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Estonia: First Evaluation Round](#), 2018, paragraph 199.

³⁶⁹ Council of Europe, [8th General Report on GRETA's Activities, focusing on provision of assistance to victims of human trafficking](#), 2019, p.30.

³⁷⁰ GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Finland: Second Evaluation Round](#), 2019, paragraph 129.

³⁷¹ [COM\(2020\) 188 final](#).

³⁷² Council of Europe, [9th General Report on GRETA's activities](#), 2020, paragraph 152.

decree of the Federal Ministry of the Interior.³⁷³ In Ireland, in turn, it is available under section 5 of the Administrative Immigration Arrangements for the Protection of Victims of Human Trafficking.³⁷⁴ Further, the Italian authorities have argued in their dialogue with GRETA that 'the 'special support programme' under Article 13 of Law No. 228/2003 on 'Measures against trafficking in persons' fulfils the purpose of the recovery and reflection period, since assistance is provided to victims regardless of their co-operation with the investigation for a period of three months, which may be extended by an additional three months.'³⁷⁵

According to GRETA, not all countries which it evaluated, including EU Member States, define this period in a manner consistent with the CoE convention.³⁷⁶ It can be argued in light of a similar phrasing used in the Residence Permit Directive, that this manner would not be consistent with EU law either. For instance, in Denmark and Germany, instead of the recovery and reflection period, victims are granted a deadline for leaving the country.³⁷⁷ Such a framing of the recovery and reflection period places it within the paradigm of containing illegal migration and can hardly offer an incentive to self-report. On the contrary, it is likely to discourage it, thus compounding the already challenging prosecution of THB cases.

Evidence also shows differences between Member States with respect to the starting point or scope of application of the recovery and reflection period. For once, in some Member States the period is granted only to identified victims (e.g. CY, DK, HU),³⁷⁸ excluding presumed THB victims who are arguably in the greatest need of such protection. In other Member States, while this is not a certainty, there is a danger that presumed victims could be excluded through an inappropriate application of the laws (e.g. AT, BG),³⁷⁹ or that the granting of this period will be linked to cooperation with the authorities (e.g. AT, BG, DK).³⁸⁰ In Bulgaria, the problem extends further, as there is no clarity as to who makes a decision – and how – to start the reflection period.³⁸¹ The EU could consider harmonising the starting point for granting the recovery and reflection period to align it with the CoE convention and Article 11(2) of the Anti-Trafficking Directive. In other words, it could directly establish that the recovery and reflection period should be provided as soon as the competent authorities have a reasonable-grounds indication for believing that the person might have been subjected to THB.

The duration of the recovery and reflection period also varies across Member States. Some countries chose the minimum of 30 days (e.g. AT, DK), while others opted to extend it, e.g. to 60 or 90 days. Some Member States also provide longer recovery and reflection periods for children (e.g. BG, CY, EL, HR, PL).³⁸² In view of arguments that the length of the recovery and reflection periods in Member States, even if coupled with the length of residence permits issued to THB victims following that

³⁷³ GRETA, [Evaluation report. Austria: Third evaluation round. Access to justice and effective remedies for victims of trafficking in human beings](#), 2020.

³⁷⁴ GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Ireland: Second Evaluation Round](#), 2017.

³⁷⁵ GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Italy: Second Evaluation Round](#), 2019, paragraph 192.

³⁷⁶ Council of Europe, [9th General Report on GRETA's activities](#), 2020, paragraph 154.

³⁷⁷ Council of Europe, [9th General Report on GRETA's activities](#), 2020, paragraph 154.

³⁷⁸ Based on the most recent GRETA evaluation reports concerning the listed Member States, as available on 21 July 2020.

³⁷⁹ Based on the most recent GRETA evaluation reports concerning the listed Member States, as available on 21 July 2020.

³⁸⁰ Based on the most recent GRETA evaluation reports concerning the listed Member States, as available on 21 July 2020.

³⁸¹ GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Bulgaria: Second Evaluation Report](#), 2016.

³⁸² Based on the most recent GRETA evaluation reports concerning the listed Member States, as available on 21 July 2020.

period, are not sufficient,³⁸³ the EU could consider establishing an appropriate minimum length. The possible EU-level provision, as a minimum rule, would have to be carefully set up against the analysis of solutions applied in Member States to not lower the standards in those Member States which provide victims with a longer time for recovery.

There is also evidence suggesting that victims are not always informed about the recovery and reflection period (e.g. AT, BE),³⁸⁴ which may also be testament to lesser knowledge and awareness on this matter among frontline officials (e.g. FI).³⁸⁵ However, there is also a possibility that granting the recovery and reflection period is perceived by law enforcement officers to be in conflict with the interests of the criminal investigation and the rights of suspects. For example, '[a]ccording to the [...] study by HEUNI and the National Rapporteur [...] those [i.e. police officers – author's note] interviewed for the study who knew about these periods considered that they might be problematic as they could delay police interviews with victims of THB, in particular when suspected perpetrators have been detained and must be released unless charges are raised against them.'³⁸⁶ These challenges highlight the continuous need for training of frontline staff, including by clarifying the relation between the rights of victims and suspects.

In some instances, the difficulties observed may suggest the need for legislative intervention, to make provisions related to the recovery and reflection period clearer. In this context, in its 2018 report, the European Commission noted that Luxemburg clarified the fact that victims have the right of a reflection period during which they are not obliged to cooperate with the police, while Finland added an explicit prohibition for prosecutors and police to get in touch or seek information during the reflection period, apart from limited exceptions.³⁸⁷ There are also reports of authorities failing to grant the period to migrant victims and deporting them.³⁸⁸

Finally, at least in some Member States (e.g. EL, FI, SI), the granting of the recovery and reflection period still appears to be rare compared to the number of identified victims. Additionally, relevant data is not available for all Member States.

In light of the difficulties it identified during its evaluations, GRETA has urged a number of its member states, including several EU Member States (8 'full urges'³⁸⁹ and 11 'partial urges'³⁹⁰) to ensure compliance with Article 13 of the CoE convention. It urged for the provision of a statutory footing for the recovery and reflection period, including de-linking it from cooperation in the investigation, as well as extending its application to EU/EEA nationals and asylum seekers.³⁹¹ The current research can reiterate these recommendations, adding the continuing need for training and awareness-raising among frontline staff.

Access to counselling and legal representation

Based on Article 12(2) of the Anti-Trafficking Directive, Member States should ensure that THB victims have access to legal counselling without delay, as well as to legal representation. As further

³⁸³ PICUM, [Insecure justice? Residence permits for victims of crime in Europe](#), 2020.

³⁸⁴ Based on the most recent GRETA evaluation reports concerning the listed Member States, as available on 21 July 2020. See also, GRETA, [8th General Report on GRETA's Activities](#), 2019, p.57. Here, GRETA states: 'Law enforcement officers do not always properly explain to victims their rights even if there are legally obliged to do so. This concerns in particular the right to a recovery and reflection period and the right to protection of privacy and safety.'

³⁸⁵ Based on the most recent GRETA evaluation reports concerning the listed Member States, as available on 21 July 2020.

³⁸⁶ GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Finland: Second Evaluation Report](#), 2019, paragraph 155.

³⁸⁷ [SWD\(2018\) 473 final](#), p.87, footnote 201.

³⁸⁸ GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Greece: First Evaluation Round](#), 2017, paragraph 168.

³⁸⁹ To the following EU Member States: BG, DE, DK, HU, IE, IT, LV, SE.

³⁹⁰ To the following EU Member States: AT, ES, FI, FR, LT, LU, MT, NL, PL, SI, SK.

³⁹¹ Council of Europe, [9th General Report on GRETA's activities](#), 2020, paragraph 155.

explained in recital 19 to the Anti-Trafficking Directive: '[t]he purpose of legal counselling is to enable victims to be informed and receive advice about the various possibilities open to them. Legal counselling should be provided by a person having received appropriate legal training without necessarily being a lawyer. Legal counselling and, in accordance with the role of victims in the relevant justice systems, legal representation should be provided free of charge, at least when the victim does not have sufficient financial resources, in a manner consistent with the internal procedures of Member States. As child victims in particular are unlikely to have such resources, legal counselling and legal representation would in practice be free of charge for them.'

While arrangements for the provision of legal counselling and/or legal representation are provided in the respective legislations of most Member States,³⁹² challenges in accessing those services have been identified. However, considering the limited time available for this study, the challenges highlighted below must be seen as an indicative catalogue rather than a complete analysis.

Some evidence points to uneven access to legal services based on the migration status of a THB victim. Potential victims placed in detention prior to deportation and victims in asylum procedures apparently do not enjoy the same level of access to specialised legal counselling and legal representation as other victims in some Member States (e.g. AT, DK).³⁹³

Furthermore, access to legal counselling and representation does not always appear to be 'without delay' (e.g. BE, DK, & IE).³⁹⁴ In Belgium, budget cuts for support services reduced the availability of legal representation and created a reliance on pro bono lawyers.³⁹⁵ However, insufficient resources for NGOs supporting THB victims are a common problem across Member States. Since victims often rely on NGOs for specialised legal aid, this is likely to affect victims' access to quality legal services that NGOs would otherwise provide. At the same time, the low remuneration paid to lawyers in state-funded legal aid programmes is also a frequent problem,³⁹⁶ as it does not create incentives for legal professionals to engage in such schemes.

Importantly, access to legal representation based on the Anti-Trafficking Directive is to be provided 'in accordance with the role of victims in the relevant justice system.' Thus, the Anti-Trafficking Directive does not foresee full harmonisation in this respect. In some countries, it would appear that the right to legal representation for victims is only limited to claiming compensation (CY), and not available in criminal proceedings (DK).³⁹⁷

Victim's access to witness protection programmes and other similar measures

Article 12(3) of the Anti-Trafficking Directive foresees the provision of appropriate protection based on an individual risk assessment. The protection can take the form of a witness protection programme or other similar measures. In its 2016 report, the European Commission assessed that the provision was transposed by all Member States.³⁹⁸ CoE's GRETA also observed that legislation in its member states envisages protective measures for victims.³⁹⁹

³⁹² [COM\(2016\) 722 final](#).

³⁹³ Based on the most recent GRETA evaluation reports concerning the listed Member States, as available on 21 July 2020.

³⁹⁴ Based on the most recent GRETA evaluation reports concerning the listed Member States, as available on 21 July 2020.

³⁹⁵ GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Belgium: Second Progress Report](#), 2017.

³⁹⁶ GRETA, [8th General Report on GRETA's Activities](#), 2019, p.29.

³⁹⁷ Based on the most recent GRETA evaluation reports concerning the listed Member States, as available on 21 July 2020.

³⁹⁸ [COM\(2016\) 722 final](#), p.11.

³⁹⁹ Council of Europe, [9th General Report on GRETA's activities](#), 2020, p.67.

However, despite the availability of both witness protection programmes and other similar measures in legislation, evidence suggests that Member States do not frequently take advantage of those measures. In particular, there appears to be little to no practice of applying witness protection programmes to THB victims, among others because the authorities have so far not identified such a need, but also because entry into such programmes is related to serious personal consequence for the victim (e.g. EL, FI, NL).⁴⁰⁰ Prosecutors met by GRETA in the Netherlands, where a witness protection programme was employed once, thought that the existing shelters for THB victims were safe enough and that additional protection measures could be taken without employing the full scale witness protection programme.⁴⁰¹ Among other protection measures, police escorts to the hearings are reported to be used more often (e.g. in BG, CY, HR).⁴⁰² In Cyprus, apparently all THB victims are accompanied by the police during the trial.⁴⁰³ In Austria, protection of family members was noted as a weakness in the system (AT).⁴⁰⁴ On the other hand, positive examples of how family protection can practically be ensured were reported by GRETA in Cyprus (see below).⁴⁰⁵

Good practice examples:

In its 2020 evaluation report on Cyprus, GRETA recalled three cases when Cypriot authorities took actions aimed at protecting family members of THB victims identified in Cyprus:

'In 2018, the son of a Ukrainian woman who had been identified as a victim of THB in Cyprus was threatened by the woman's traffickers in Ukraine. Measures were taken to enable him to enter Cyprus on a tourist visa and a risk assessment was conducted by the police upon his arrival, resulting in him obtaining a humanitarian visa and a work permit.

In another instance, the wife and two children of a Pakistani victim who had filed a complaint against his traffickers in Cyprus were threatened in Pakistan. The safe arrival of the family in Cyprus was ensured through diplomatic channels and the co-operation of all relevant authorities.

A third case concerned a Chinese woman, victim of sexual and labour exploitation, whose five-year old child was under the supervision of the trafficker's family in China. The police was informed and the investigation was suspended until the victim was reunited with her child, through the co-operation of the Cypriot police and the Chinese authorities, and with the involvement of diplomatic channels. After the reunification of the mother with the child, the premises of the suspect in Cyprus were raided and he was arrested.'

Specific treatment aimed at preventing secondary victimisation

Article 12(4) of the Anti-Trafficking Directive obliges Member States to ensure that THB victims receive specific treatment aimed at preventing secondary victimisation by avoiding: (a) an unnecessary repetition of interviews during investigation, prosecution or trial; (b) visual contact between victims and defendants including during the giving of evidence, for example during interviews and cross-examination, through appropriate means, such as the use of appropriate communication technologies; (c) the giving of evidence in open court; and (4) unnecessary questioning concerning the victim's private life.

⁴⁰⁰ Based on the most recent GRETA evaluation reports concerning the listed Member States, as available on 21 July 2020.

⁴⁰¹ GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Netherlands: Second Progress Report](#), 2018, paragraph 232.

⁴⁰² Based on the most recent GRETA evaluation reports concerning the listed Member States, as available on 21 July 2020.

⁴⁰³ GRETA, [Evaluation report. Cyprus. Third evaluation round. Access to justice and effective remedies for victims of trafficking in human beings](#), 2020.

⁴⁰⁴ GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Austria: Second Progress Report](#), 2015.

⁴⁰⁵ GRETA, [Evaluation report. Cyprus. Third evaluation round. Access to justice and effective remedies for victims of trafficking in human beings](#), 2020.

In its 2016 transposition report, the European Commission noted that '[m]ost Member States have taken measures to transpose this provision, however due to the fact that some procedures are not covered explicitly in the national legislation, the Commission might need to further examine the

practical implementation of this provision.⁴⁰⁶ The current research can also only offer limited assessment of the application of such measures across Member States.

All Member States introduced some measures to avoid secondary victimisation. There may be some variety in available options between Member States, but the core measures are largely similar and in line with the Anti-Trafficking Directive and Victims' Rights Directive. In general, stronger protection measures are available for victims considered more vulnerable or needing more protection, in particular children and victims of sex offences.

Additional measures for child victims include the obligatory presence of a psychologist (e.g. BG, CY, EE, HU, IT, PL), hearings organised in a specially prepared room, such as the so-called 'blue room' (e.g. AT, BE, BG, CY, CZ, EE, HR, HU, IT, PL, SE), limitation on the number of hearings (e.g. BG, LT, PL, SI) or obligatory video-recording and the use of testimony during trial (e.g. BG, CY, CZ, DK, EE, HR, HU).⁴⁰⁷ Gender sensitive measures usually involve the possibility for the hearing to be conducted by a person of the same gender (e.g. AT, CY, CZ, ES, HR, LT).⁴⁰⁸

Different challenges and failures in the application of these protection measures across Member States can be singled out. They highlight room for significant improvement, and point to the existing obstacles in appropriate implementation of the Anti-Trafficking Directive. In some cases, identified examples of shortcomings suggest lack of specific knowledge or sensitivity, as well as attitudinal barriers to successful implementation. For example, in many Member States there are solutions to avoid repeat interviews, including indirect hearings through reading out the testimony given earlier during the trial (e.g. AT, BG, CZ, FI, HR, HU, IT, NL, PL, PT). However, the practices vary. For example, in Italy, at the request of the victim or the prosecutor, the authorities can conduct a 'special evidence pre-trial hearing' (*incidente probatorio*).⁴⁰⁹ Such a hearing follows the same rules as a hearing during the trial and, if conducted in the presence of the defence counsel, results in a testimony admissible as evidence at the trial without the need of repetition. As reported by GRETA, according to NGOs, this procedure is applied in practice in most THB cases.

Unlike in Italy, in Bulgaria the average number of interrogations of victims of THB during pre pre-trial proceedings is four and the interrogation may involve cross-examination with the accused, despite the availability of other legal solutions.⁴¹² What is more, while Bulgarian law allows for a video-linked hearing, judges supposedly do not always give permission to use this method.⁴¹³ Also, in 2019, an Irish judge declined to allow THB victims who had left the country the option to testify by video link which led to the dismissal of the case.⁴¹⁴ This showcases the need to continue training for justice system professionals at all levels, encouraging them to make full use of the existing legal avenues. Increased exchange of experiences on good practices between professionals from different Member States could also be beneficial and empowering.

Insufficient allocation of financial and human resources also jeopardises an appropriate application of protection measures in criminal investigation and proceedings. Shortcomings in this respect have for example been identified in Greece, where the possibility of testifying through audio-visual means allowed by law was reportedly hampered by the lack of equipment.⁴¹⁵ In Finland, the Ombudsman for Children has criticised the low number of representatives for unaccompanied children and the considerable variation in their competence.⁴¹⁶

Good practice examples:

In the Netherlands, a hearing through a video-link was reported as a rule in THB cases⁴¹⁰ while in Bulgaria, exclusion of the public from the hearing is reported to be often applied in cases of THB for the purpose of sexual exploitation.⁴¹¹

It should also be acknowledged that some of the measures, such as the exclusion of defendants from the victims' hearings, can in some circumstances be seen as a violation of the defendants' rights to a fair trial. The balancing of victims' and defendants' rights may not be an easy task, especially given the historic emphasis on the latter. This weighing exercise can lead to negative consequences for victims, especially when coupled with professionals' lack of

sensitivity. While the above may not have been the exact reason for it, in some Member States, victims have reportedly been forced to testify in defendants presence (e.g. BE, BG, CY, EL).⁴¹⁷ As reported by GRETA, in Greece, cross-examinations with the suspected offenders present can be very intrusive.⁴¹⁸ In relation to Cyprus, GRETA received information about cross-examinations of children being carried out over several days and by non-specialised lawyers of defendants.⁴¹⁹ This is particularly striking in view of the fact that Cyprus has recently introduced a number of advanced safeguards to protect children, which are based on the Barnahus model⁴²⁰. However, such clashing practices have been visible across Member States, which suggests a fragmented approach, or silo thinking, in victim protection.

6.2.4. Reliance on victim's testimony and cooperation

Article 9(1) of the Anti-Trafficking Directive requires Member States to ensure that investigation into, or prosecution of, THB and related offences is not solely dependent on reporting or accusation by a victim. According to 2016 European Commission transposition report, investigation into and prosecution of traffickers across the EU is not conditional on a victim's reporting or accusation.⁴²¹ However, as reported by GRETA in relation to Hungary for example, 'the limited number of investigations and prosecutions for THB is to some extent due to the fact that the police expect victims to file charges against their traffickers.'⁴²²

Article 9(1) also requires Member States to ensure that criminal proceedings may continue even if the victim has withdrawn their statement. However, when commenting on this requirement, an EU official interviewed for this study noted that the provision constitutes 'nice legislation, but the practice is different' (EU03). In fact, investigations and prosecutions across Member States rely primarily on the participation of the victim and the victim's testimony, which serves as a key piece

⁴⁰⁶ [COM\(2016\) 722 final](#), p.11.

⁴⁰⁷ Based on the most recent GRETA evaluation reports concerning the listed Member States, as available on 21 July 2020.

⁴⁰⁸ Based on the most recent GRETA evaluation reports concerning the listed Member States, as available on 21 July 2020.

⁴⁰⁹ GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Italy: Second Evaluation Report](#), 2019.

⁴¹⁰ GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Netherlands: Second Evaluation Report](#), 2018.

⁴¹¹ GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Bulgaria: Second Evaluation Report](#), 2016.

⁴¹² GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Bulgaria: Second Evaluation Report](#), 2016, paragraph 207.

⁴¹³ GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Bulgaria: Second Evaluation Report](#), 2016.

⁴¹⁴ US Department of State, [Trafficking in Persons Report](#), 2016.

⁴¹⁵ GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Greece: First Evaluation Round](#), 2017, paragraph 227.

⁴¹⁶ GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Finland: Second Evaluation Round](#), 2019.

⁴¹⁷ Based on the most recent GRETA evaluation reports concerning the listed Member States, as available on 21 July 2020.

⁴¹⁸ GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Greece: First Evaluation Round](#), 2017, paragraph 227.

⁴¹⁹ GRETA, [Evaluation report. Cyprus. Third evaluation round. Access to justice and effective remedies for victims of trafficking in human beings](#), 2020.

⁴²⁰ A specific legal system that responds to the special needs of children about whom there is suspicion that they have been subjected to violence or abuse.

⁴²¹ [COM \(2016\) 722 final](#).

⁴²² GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Hungary: Second Evaluation Round](#), 2019.

of evidence to secure a possible conviction.⁴²³ Hence, victim cooperation remains among the main indicators of success in all stages of a criminal proceeding,⁴²⁴ since Member States generally acknowledge evidentiary difficulties to sustain a prosecution and bring a case to court.⁴²⁵ This observation was, for example, reflected by an interviewee from Spain who observed said that: 'One of the main problems of the Spanish criminal system and one of the main reasons why there aren't many convictions in Spain is that most of the criminal proceedings rely on victim testimonies. In all of the [cases that have so far been conducted in Spain], when a conviction has been made, it is because there has been a victim willing to testify [...]' (ES01).

Furthermore, the Annual Report for 2019 published by the Irish NREM notes that 'despite best efforts, each of the prosecutions initiated in recent years have collapsed because of issues related to witnesses.'⁴²⁶ As reported by GRETA, in Cyprus, 'a number of victims return to their countries of origin after the investigation, while the cases are pending trial, which very often results in acquittals or withdrawal of the cases. GRETA was informed that there is no legal possibility for victimless prosecution.'⁴²⁷

At the same time, a significant body of literature confirms the observation that victims are frequently (and justifiably) reluctant to cooperate with law enforcement bodies⁴²⁸ (see also sub-chapter 6.2.1), but also that their testimony 'is often characterised by weaknesses.'⁴²⁹ Research shows that victims are often traumatised, particularly those who are trafficked for the purpose of sexual exploitation; and they may either fear their perpetrators or conversely feel attached to them through family bonds or other relations. Additionally, while this is not always the case,⁴³⁰ victims tend to have limited education and come from disadvantaged, or marginalised backgrounds.⁴³¹ As a result, they are frequently not able to provide coherent, sufficient or credible testimony (e.g. AT, IT, SE, LT01, PL03). Even those victims who provide credible testimonies may be unable to recall sufficient detail to assist in identifying and apprehending and/or prosecuting the perpetrators. An interviewee in Italy, in fact, reported that this concerned the majority of THB cases. Additionally, in relation to THB for the purpose of sexual exploitation, victims' reports often only allow for identification of the immediate perpetrator – madame or pimp – rather than the broader trafficking ring (IT03).

The fact that the testimonies of THB victims, while essential to the prosecutorial process, may be difficult to obtain, or may only be of limited value, underscores the need for Member States to develop legal tools, investigative techniques and competences of officials so as to be able to meet evidentiary thresholds with less reliance on the victim. The Anti-Trafficking Directive prescribes that those responsible for investigating and prosecuting traffickers should have access to investigative tools similar to those used in investigations into organised crime or other serious crime cases. As became visible in the reviews conducted by GRETA, such tools are largely allowed in THB cases, albeit sometimes requiring specific authorisations or court orders. Limited evidence gathered on this matter during the research suggests that their practical application varies between Member

⁴²³ Council of Europe, [9th General Report on GRETA's activities](#), 2020, p.66.

⁴²⁴ M. Matos, M. Gonçalves and Â. Maia, [Understanding the criminal justice process in human trafficking cases in Portugal: factors associated with successful prosecutions](#), Crime Law Soc Change 72, 2019, pp.501–525.

⁴²⁵ [SWD \(2018\) 473 final](#).

⁴²⁶ Department of Justice and Equality, Anti-human Trafficking Unit, [Annual Report 2019: Trafficking in Human Beings in Ireland](#), 2020, p.18.

⁴²⁷ GRETA, [Evaluation report. Cyprus. Third evaluation round. Access to justice and effective remedies for victims of trafficking in human beings](#), 2020, paragraph 71

⁴²⁸ See e.g. FRA, [Protecting migrant workers from exploitation in the EU: workers' perspectives](#), 2019; Also observed in current research in country report for: AT, BG, CY, CZ, IE, LT, NL, SK.

⁴²⁹ UNODC, [Evidential Issues in Human trafficking Cases](#), 2017, p.11.

⁴³⁰ E.g. PL03 noted that in Poland many victims from Ukraine are, in fact, well-educated.

⁴³¹ J. Muraszkievicz, Poland: Human trafficking and homelessness, in: CBSS (2020). [Human Trafficking – Baltic Sea Region Round-Up report](#), 2020, pp.38–41.

States. For example, in Finland, these special investigative techniques are reported to only be used rarely.⁴³² On the other hand, in Estonia, covert surveillance was apparently one of the main investigation techniques employed to obtain evidence.⁴³³ In 2018, the European Commission also reported that financial investigations form part of trafficking investigations in Member States. Further, the Commission reported that measures are taken for improving the effectiveness of financial investigations, and that these are useful tools for the restitution of victims' losses (e.g. AT, BE, CZ, DE, EE, ES, HU, IT, NL, RO, PT).⁴³⁴

In practice, however, the efficiency of the criminal justice systems in prosecuting perpetrators largely hinges on the identification of victims and their credible involvement in legal proceedings. Based on the Anti-Trafficking Directive and the Victims' Right Directive, the victim has a right to assistance and protection both within and outside criminal proceedings. The provision of appropriate assistance and protection can positively influence the victims' willingness to contribute to proceedings, e.g. by increasing their sense of safety, et cetera.

However, given the evidentiary difficulties involved in prosecuting trafficking cases and the pressure imposed on criminal justice systems, there is a danger that victims will be coerced into participating in proceedings, if the provision of assistance and protection is made conditional on the victims' cooperation. In fact, in its recent annual report, GRETA expressed concern at the 'indications that in some State Parties [including EU Member States – author's note] the provision of assistance to victims of trafficking hinges on their co-operation with law enforcement authorities, even though the link does not exist formally.'⁴³⁵ In 2019, GRETA 'fully urged'⁴³⁶ and 'partially urged' Member States (FI, NL) to 'ensure that, in practice, access to assistance for victims of trafficking is provided irrespective of the victim's readiness or capacity to co-operate with law enforcement.'⁴³⁷

Member States' reliance on victim testimony is particularly problematic in cases of migrants who, for various reasons, frequently disappear before the conclusion of criminal proceedings (CY, CZ, DK, FI). As a result, they are not able to support the investigation or testify before the court, while this is required in some jurisdictions. For example, based on the legal system of Cyprus, the presence of the victim before the court is essential, so it is of notable importance that victims stay in Cyprus and testify (CY03). For such challenges, legal systems in Member States should create options for an early hearing of the victim in pre-trial proceedings or a remote hearing via a video-link. While these are often already available, access to such measures is not consistent throughout the EU. The conclusion of proceedings within a reasonable time in this context also proves essential, however, delays and possible excessive lengths of proceedings have been observed as a pattern and a challenge in some Member States.⁴³⁸

6.2.5. Prosecution of THB as other crimes

Research results suggest that cases of THB are still prosecuted as other crimes in Member States.⁴³⁹ Evidentiary difficulties, which have been indicated above as a challenge in THB cases, contribute to

⁴³² GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Finland: Second Evaluation Round](#), 2019.

⁴³³ GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Estonia: First Evaluation Round](#), 2018.

⁴³⁴ [SWD\(2018\) 473 final](#).

⁴³⁵ Council of Europe, [9th General Report on GRETA's activities](#), 2020, p.57.

⁴³⁶ ES, FR, IE, LU, RO, SI.

⁴³⁷ Council of Europe, [9th General Report on GRETA's activities](#), 2020, p.57

⁴³⁸ Country reports for: CY, CZ, LT, MT, NL, PT, RO.

⁴³⁹ Country reports for: CZ, FI, FR, HR, HU, LU, PT, SK.

this pattern. Consequently, THB cases are sometimes requalified or investigated from the outset, among others, as sex offences, immigration offences, or offences against liberty. Evidence suggests that this may be easier and more practical from the perspective of the criminal justice systems.⁴⁴⁰ However, it also results with lower punishments for offenders and frequently may lead to the termination of the provision of support to the victim.⁴⁴¹

There are also indications of definitional difficulties. Authorities in some Member States face challenges in prosecuting THB for the purpose of labour exploitation, which rest in determining what labour exploitation amounts to in practice (EE, LU, PL). The vague scope and complexity of trafficking for forced labour was noted as one of the main challenges in the 2015 European Commission study on case law relating to trafficking for labour exploitation. The authors noted that the ambiguity 'sometimes results in acquittals, lower penalties or offences convicted under alternative offence provisions [...]'.⁴⁴² One of the interviewees for the current study noted that successfully prosecuting cases of trafficking for labour exploitation is a serious problem, since there is no uniform definition or concept of the crime in EU legislation, which leads to a notable number of THB cases being processed as other types of crimes (LU03). Some Member States, however, have made efforts to provide guidance related to labour exploitation to professionals (e.g. CY, CZ, PL).

Finally, the dynamic character of this phenomenon represents a significant challenge to the justice system when trying THB-related offences. As an interviewee in Slovenia noted: '[t]he perpetrators of trafficking in human beings closely follow the case law and skilfully adapt over and over again when committing such crimes. If the court in a particular case has identified circumstances that confirm trafficking in human beings, then the perpetrators no longer use it and adjust their modus operandi' (SI03).

When legal definitions are not always precise and, in fact, often cannot fully be so, because the acts under consideration are fluid and ever-changing, continuous training of professionals, building their awareness and shaping attitudes to empower them to conduct legal reasoning in line with a victim-centred and human-rights-based approach become key.

However, in some instances, legislative actions may be required in addition to soft measures, such as training or awareness-raising. For example, evidence suggests that in some Member States, a reduction of overlap between criminal provisions would be advisable. Member States which have not yet done so could also consider adopting specific instructions or guidance to introduce more clarity and consistency to the practice. For example, in Hungary, the internal instructions of the Attorney General's Office were indicated as an example of a good practice. Published in October 2018, it helps to correctly classify the facts by interpreting exploitation and vulnerability and by distancing them from pandering or other crimes related to THB, such as facilitating prostitution, or exploitation of children. It was introduced, since in the past, prosecutors found it easier to prove other offences of lesser weight and, consequently, few charges based on provisions of Article 192 of the Criminal Code reached the courts (HU03).

⁴⁴⁰ M. Matos, M. Gonçalves, M. and Â Maia, [Understanding the criminal justice process in human trafficking cases in Portugal: factors associated with successful prosecutions](#), *Crime Law Soc Change* 72, 2019, pp.501–525; A. Farrell, B. Kane, *Criminal Justice System Responses to Human Trafficking*, 2020, In: Winterdyk, J., Jones, J. (eds.). [The Palgrave International Handbook of Human Trafficking](#); GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Hungary: Second Evaluation Round](#), 2019, paragraph 179. In the latter, GRETA reported that: 'Hungarian authorities indicated that offences which might be THB are sometimes prosecuted as other crimes which are easier to investigate and prove in court, but carry lesser punishments [...].'

⁴⁴¹ GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Finland: Second Evaluation Round](#), 2019.

⁴⁴² European Commission, [Study on case-law relating to trafficking in human beings for labour exploitation](#), 2015, p.79.

6.2.6. Low prosecution and conviction rates of offenders

Increasing the number of successful investigations and prosecutions leading to convictions for THB is one of the key priorities of the EU legal and policy framework addressing this crime.⁴⁴³ As noted earlier, however, the European Parliament itself stated in 2016 that 'there is still too low a risk of prosecution.'⁴⁴⁴ While some improvements can be observed, evidence collected for this paper shows that low level of investigation, few successful prosecutions and low conviction rates remain a common and repeatedly recognised pattern among the Member States.⁴⁴⁵

The 2018 European Commission report described the level of prosecutions and convictions as 'worryingly low.'⁴⁴⁶ It noted that 'Member States report that while there is an increase in investigations and prosecutions, often in many cases there is insufficient evidence to sustain a prosecution and bring a case to court.'⁴⁴⁷ According to the most recent EU-wide data collection on THB, between 2015-2016, only 7503 people were in formal contact with the police and criminal justice system (i.e., as suspects, arrested persons, and/or cautioned).⁴⁴⁸ Between 2015-2016, Romania (n=2777), Germany (n=1198), Czechia (n=1148), Bulgaria (n=856), and France (n=465) were the five Member States with the highest number of reported persons suspected, arrested or cautioned for THB. During the same period, there were 5,979 prosecutions among the Member States. The Member States reporting the largest number of prosecutions for THB were France (n=2396), Romania (n=817), Austria (n=747), the Netherlands (n=216), and Greece (n=214). Finally, between 2015-2016, there were 2927 convictions for THB in the EU28.⁴⁴⁹ The five Member States with the highest number of convictions included France (n=1687 – 57 % of the total cases), Romania (n=585 – 19.9 %), Italy (n=146 – 4.9 %), the Netherlands (n=124 – 4.2 %), and Bulgaria (n=85 – 2.9 %). Based on these findings, aside from the number of convictions in France, the relative prosecution rates are notably very low.

The EU-wide data collection shows variations in court judgements between Member States. For 3691 court judgements issued during 2015-2016, 302 led to acquittal, 2925 to conviction and 464 to other decisions. In eight Member States,⁴⁵⁰ all judgements were convictions. In Bulgaria and Portugal, however, most judgements were acquittals, with Bulgaria reporting as many as 85 acquittals for the total of 91 judgements.⁴⁵¹ In the period between 2015-2016, around three-quarters of suspects (78 %), prosecutions (75 %), and convictions (72 %) concerned THB for the purpose of sexual exploitation. This compares to 15 % of suspects, 2 % of prosecutions and 1 % of convictions for THB for labour exploitation.

Deficiencies in investigation, prosecution, and conviction of THB cases, including specifically among EU Member States, have been acknowledged by GRETA in its evaluation rounds. In 2019, GRETA

⁴⁴³ [SWD\(2018\) 473 final](#).

⁴⁴⁴ European Parliament, [European Parliament resolution of 12 May 2016 on implementation of the Directive 2011/36/EU of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims from a gender perspective](#), 2015/2118(INI), 2016.

⁴⁴⁵ [SWD\(2018\) 473 final](#); M. Matos, M. Gonçalves, M. and Â Maia. [Understanding the criminal justice process in human trafficking cases in Portugal: factors associated with successful prosecutions](#), Crime Law Soc Change 72, 2019, pp.501–525; A. Farrell and B. Kane, Criminal Justice System Responses to Human Trafficking, 2020, In: Winterdyk, J., Jones, J. (eds.). [The Palgrave International Handbook of Human Trafficking](#).

⁴⁴⁶ [SWD\(2018\) 473 final](#).

⁴⁴⁷ Ibid.

⁴⁴⁸ In 2015 – 3331 and in 2016 – 4172. European Commission, [Data collection on trafficking in human beings in the EU](#), 2018. If not referenced otherwise, all EU-level data in this section is quoted after this report.

⁴⁴⁹ Data on convictions was provided by 19 Member States.

⁴⁵⁰ BE, EL, FR, HU, IT, LV, SI, SK.

⁴⁵¹ European Commission, [Data collection on trafficking in human beings in the EU](#), 2018, p.102.

partially urged nine EU Member States⁴⁵² to take measures to improve the investigation of trafficking cases.⁴⁵³ Its recommendations related to: the '(i) need to identify and address gaps in the investigation procedure; (ii) availability of specialised units and investigators, sufficiently staffed and resourced; (iii) training; (iv) availability and use of special investigation techniques; (v) use of financial investigations in human trafficking cases; (vi) proactive investigation of labour exploitation cases; (vii) cooperation among relevant actors.'⁴⁵⁴ GRETA also fully urged Sweden and partially urged eight more Member States⁴⁵⁵ to take steps with regard to prosecution, and formulated recommendations concerning: '(i) training of prosecutors to deal with human trafficking cases; (ii) specialisation of prosecutors; (iii) use of plea bargaining in human trafficking cases; (iv) re-qualification of human trafficking offences as other offences carrying lower penalties and not providing victims with access to their rights as victims of trafficking; (v) prosecution of labour exploitation cases; (vi) prosecution of police officers and officials involved in, or complicit with, human trafficking cases.'⁴⁵⁶

With respect to convictions, GRETA also issued a full urge in relation to Sweden and partial urges in relation to eight other Member States.⁴⁵⁷ As noted in its report, a full urge comprises '[t]he low number of convictions for human trafficking and/or the leniency of the penalties, combined with the lack of sensitisation, training and specialisation of judges.' The recommendations formulated by GRETA related to the '(i) number of convictions for human trafficking, in relation to the number of investigations; (ii) effective, proportionate and dissuasive convictions; (iii) convictions for trafficking for the purpose of labour exploitation; (iv) sensitisation and training of judges regarding human trafficking, the impact of exploitation on the victims and the need to respect their human rights; (v) specialisation of judges to deal with human trafficking offences.'⁴⁵⁸ With more limited information available in relation to investigations, the country-level research conducted for this paper revealed negative patterns within the same or similar areas as those identified by GRETA. Later in this chapter, these limitations will be discussed in more detail and in relation to specific provisions in the Anti-Trafficking Directive.

Across Member States, a visible disproportion between initiated investigations and convictions can be reported. Although – similarly to the EU wide data collection – the statistical data collected during this study does not warrant conclusions on general trends in relation to THB investigations, prosecutions, and convictions,⁴⁵⁹ some Member States have not had a THB conviction for several years, while others have only had single convictions over the same period of time. To flag some worrying examples, in Ireland, the government has not obtained a trafficking conviction since 2013.⁴⁶⁰ The 2020 US Department of State report suggests that the coordination between the Irish law enforcement and the Office of the Director of Public Prosecutions (ODPP) continued to be ineffective. The report recalls a notable police investigation into labour trafficking involving 21 sea fishers, 20 of whom received victim support services for THB victims from the government. The police submitted the case to ODPP in 2019, but the latter refused to prosecute.⁴⁶¹ In March 2018,

⁴⁵² HR, HU, IE, IT, MT, PL, PT, SE, SK,.

⁴⁵³ Council of Europe, [9th General Report on GRETA's activities](#), 2020.

⁴⁵⁴ Council of Europe, [9th General Report on GRETA's activities](#), 2020.

⁴⁵⁵ HR, HU, IE, IT, MT, PL, PT, SK.

⁴⁵⁶ Council of Europe, [9th General Report on GRETA's activities](#), 2020.

⁴⁵⁷ HR, HU, IE, IT, MT, PL, PT, SK.

⁴⁵⁸ Council of Europe, [9th General Report on GRETA's activities](#), 2020.

⁴⁵⁹ The obtained data is often incomplete. When the data is available, it is gathered by multiple authorities according to different methodologies. For this reason, there are inconsistencies even in data on a given country. Additionally, there are significant differences in the exact type of data collected between Member States, which means that the data is largely incomparable. It is, therefore, dangerous to draw conclusions on trends, such as e.g. possible increases or decreases in conviction rates in Member States.

⁴⁶⁰ US Department of State, [2020 Trafficking in Persons Report](#), 2020.

⁴⁶¹ US Department of State, [2020 Trafficking in Persons Report](#), 2020.

Malta convicted one sex trafficker in a case initiated in 2008, but the court fully suspended the prison sentence. Importantly, this was the first conviction since 2012.⁴⁶² This case and further data presented in the last GRETA report concerning Malta indicated that THB proceedings tend to last a long time.⁴⁶³ In Denmark, other than for cases involving prostitution, the Director of Public Prosecution filed its first indictment for trafficking in 2014.⁴⁶⁴

Even when convictions are secured, evidence collected during the study on some Member States shows that penalties for THB are still rather low (LU, NL, PL). There are also instances of sentences being suspended (MT, SK). These patterns have also been highlighted by GRETA in its evaluation reports on some Member States, for example relating to low penalties in BG, CY, FI, and HR, and to suspended sentences in BG, CY, and EE. For example, in Slovakia, almost all of the convictions within the past years ended in suspended sentences for 'mitigating circumstances of the case'.⁴⁶⁵ In its second report from 2018, the National Rapporteur in Luxembourg noted that: 'Where there have been prosecutions and convictions of the traffickers, the penalties were hardly dissuasive: those of imprisonment are conditional [...] and the fines are more than symbolic, the courts have never condemned a restaurant owner, a trafficker for the purpose of labour exploitation, to close his premises.'⁴⁶⁶

Additionally, substantial evidence indicates that Luxembourg's criminal justice system is more effective in prosecuting cases of THB for sexual exploitation than for labour exploitation, where almost all victims are migrant workers. Luxembourg can be seen as a reflection of a more general pattern, as a better efficiency of criminal justice systems in prosecuting THB for the purpose of sexual exploitation than labour exploitation has been a pattern indicated by GRETA in relation to other Member States (BG, CY) as well.

Positive patterns and an introduction of solutions aimed at tackling low rates of investigation, prosecution and conviction at Member State level have, however, been noticed. For example, France noted an increase in the number of cases prosecuted from 469 in 2013 to 569 in 2017.⁴⁶⁷ In Czechia, courts are issuing more unsuspended sentences for THB than suspended ones. Additionally, in 2019, a ground-breaking judgement was issued in a THB case, in that a custodial sentence of 18 years was imposed on the main perpetrator, and high compensation was awarded to the victims (CZ02). Meanwhile, Poland set up a case review mechanisms in 2018, whereby a prosecutor designated within the National Prosecutor's Office is mandated to coordinate THB investigations and has the authority to review, assess, discontinue or dismiss decisions taken by public prosecutors. The mechanism allows law enforcement bodies to submit dismissed cases to this prosecutor. As of March 2020, eight cases were referred via this mechanisms. In these cases, the designated prosecutor agreed that the cases concerned THB; in five, the charges were broadened to include THB and in the remaining three, the investigations were reopened.⁴⁶⁸

⁴⁶² US Department of State, [Trafficking in Persons Report](#), 2019.

⁴⁶³ GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Malta: Second Progress Report](#), 2017.

⁴⁶⁴ [Country report for DK](#).

⁴⁶⁵ Country report for SK based on statistical data of the Ministry of Justice on decisions taken between 2017-2019 that included par. 179 of the Criminal Code (i.e. trafficking in human beings).

⁴⁶⁶ CCDH, [Rapport sur la traite des êtres humains au Luxembourg: Années 2017-2018](#), 2019.

⁴⁶⁷ ONDRP, [Grand angle: La Traite et l'Exploitation des Êtres Humains en France: Les Données Administratives](#), 2019, p.13.

⁴⁶⁸ CBSS, [Human Trafficking – Baltic Sea Region Round-Up report](#), 2020, p.118.

6.2.7. Cross-cutting need for increased expertise and specialisation

The Anti-Trafficking Directive foresees that Member States shall take the necessary measures to ensure that persons, units, or services responsible for investigating or prosecuting THB are trained accordingly. Research confirms a continuous need to increase expertise and build awareness among professionals involved in investigating, prosecuting, and trying THB cases.⁴⁶⁹ Awareness building appears especially relevant in relation to the migration dimension, where the interests of victims do not often align well with state policies of containing illegal migration and prioritising law enforcement.

In some Member States, professionals involved in the criminal justice system are reported to still have insufficient expertise, experience in or sensitivity to cases of THB. More often than with law enforcement officials, prosecutors and judges were singled out as those professionals needing training and/or sensitisation.⁴⁷⁰ However, given a high turnover among police officers, reported specifically in two Member States (LT, PL) but likely also affecting others, continuous training for this group is also crucial. This is particularly so, when considering that police officers are the first responders and can significantly influence the victim's perception of the criminal justice system, and can thus either encourage participation or not.

Frequent rotations drain police expertise, create a need for repeated introductory training, but also interrupt operational activities, including relationships built with informants. In cases involving trafficking for sexual exploitation, the identification of victims and securing their cooperation with law enforcement bodies requires significant effort and resources. This particularly refers to the amount of time necessary to build trust with potential informants and victims (PL02, PL03).⁴⁷¹ Representatives of law enforcement bodies have to be proactive, regularly contact sex workers over longer periods of time, build relations to win their trust and, eventually, be able to build effective cases. With high staff turnover, the conditions necessary to conduct such operational activities cannot be ensured, and many of the potential gains can be lost. This underscores the value of specialisation among law enforcement officials.

The need for greater specialisation of professionals involved at various stages of proceedings is one of the more frequently formulated recommendations during the research (EE, FI, HR, IE, FI, MT). In its recent reports, GRETA also highlighted the need for specialisation of prosecutors (CY, HR) and judges (CY, HR, MT). As to specialised prosecutors, some Member States already have some in place (BE, CZ, DE, LU, PL). The presence of such specialised individuals or human trafficking units in many Member States can, therefore, be highlighted as a good practice and as a factor for improving the efficiency of the justice system.

While a relevant specialisation of professionals may show positive results, training, knowledge and activities related to THB should not be limited to selected 'elite' units at the risk of neglecting the subject in the training of frontline law enforcement officers or other officials and professionals, including medical staff, who come into contact with potential victims. While various assumptions may be held about THB involving large-scale, cross-border organised crime, a THB case can be uncovered anywhere, even by accident, for example during routine police activities conducted by prevention squads patrolling the streets (PL02, PL03). This is because the crime is 'hidden', but pervasive. It requires considerable skill and knowledge to recognise the signs of THB, so as not to prematurely dismiss the case. For example, Operation Doubrava – the largest modern slavery and THB case in Derbyshire, England – began with a single phone call to the police from a taxi firm about a man assaulting a woman in their offices. As the Derbyshire police reports: 'When police arrived,

⁴⁶⁹ Country reports for: BG, CY, DE, EE, ES, FI, HR, IE, IT, LT, MT, NL, RO.

⁴⁷⁰ Country reports for: BG, EE, HR, IE, MT, PL; interviews BG02, PL02, PL03.

⁴⁷¹ See e.g., S. Gahleitner, K. Gerlich, R. & Heiler, [Reaching and Supporting Trafficked Women in Austria and Germany: A Call for Training on Attachment and Trust-Building](#), 2019. In: Dignity: A Journal on Sexual Exploitation and Violence: Vol. 4/2.

the man had gone but the woman gave officers her home address in Derby. When our officers visited the house, we found a group of vulnerable Latvian men living inside. The pieces started to fall into place. We were clearly looking at a case of modern slavery.⁴⁷²

6.3. Conclusions and recommendations

The Anti-Trafficking Directive together with the Victims' Rights Directive and Residence Permit Directive create a legal framework capable of addressing the needs of victims. Progress in its implementation is visible and examples of many good practices can be shown. At the same time, important challenges remain and disquieting patterns can be indicated. The new EU Strategy on victims' rights (2020-2025) proposes five key priorities, including, as the very first one, effective communication with victims and a safe environment for victims to report crime. This research suggests that a lot has been done to improve the standards of protection for THB victims in criminal investigation and proceedings, but much still needs to be done to achieve this objective.

Detection and identification rates of victims remain low. Proactive detection efforts still seem rather ad hoc and fragmented in nature, although willingness of Member States to develop in this direction can be sensed. On the one hand, there is limited self-reporting, which may be related to victims' distrust for law enforcement bodies, experienced trauma, fear of perpetrators, et cetera). On the other hand, despite significant efforts in the implementation of protection measures, Member States' criminal justice systems still offer only moderate incentives to encourage victims' coming forward, especially when weighed against the possible risks, such as retaliation or deportation.

In the area of migration in particular, the needs of victims with an irregular status are not fully addressed, such as e.g. the overwhelming need to regularise their stay, as reported for example in recent research by FRA, which discourages them from reporting the crime and cooperating in proceedings. For irregular migrants, the victim-centred paradigm promoted by the Anti-Trafficking Directive gives way to that of law enforcement or containing illegal migration.

Furthermore, THB victims, including children, and often in the context of migration, are still prosecuted and punished, including with imprisonment, by Member States for offences which they were forced to commit. The application of penalties to THB victims is, to an extent, a by-product of ineffective identification, but can also relate to the lack of explicit legal provisions or clarity in the application of available solutions. Some evidence also suggests that it may partly derive from the negative perceptions of victims as culprits, especially in cases of forced criminality.

Punishing victims creates a strong sense of injustice and disillusionment, especially when viewed against the backdrop of low prosecution and conviction rates for THB offenders. With still limited application of special investigative techniques and developing financial investigations, law enforcement bodies rely on victim's testimony. Considering that victims are often in precarious situations, this is a heavy burden to carry. While victims may be unwilling to cooperate or when they do testify, only provide insufficient testimony, the results of proceedings can hardly be satisfactory, as the imposition of lenient penalties or suspended sentences is still a common practice.

There are still indications that various systems tasked with addressing THB function in silos. These are, for example, situations when victims are deported before the end of proceedings or when support organisations develop elaborate safety nets for victims to limit secondary victimisation only to have their efforts undermined by a prolonged cross-examination of the victim in the presence of the defendant. These instances underscore the need for a holistic, multidisciplinary and,

⁴⁷² Derbyshire Constabulary, [Operation Doubrava](#).

importantly, well-funded cooperation of stakeholders as part of NRMs. A clear governmental leadership and commitment is without a doubt key to success in this regard.

In various aspects discussed in this chapter, it is not the law, but the practice that requires attention. The legal framework is mostly available due to the transposition of the Anti-Trafficking Directive and the Victims' Rights Directive. Some legal solutions may still be needed, such as possibly the adoption of more explicit provisions on non-prosecution or non-punishment of THB victims, provisions on de-linking protection from cooperation with law enforcement agencies, on reframing the recovery and reflection period in some Member States, and on extending its length. Nevertheless, with the knowledge, skills and will, professionals could overcome the majority of the challenges. Research suggests that continuous training and awareness-raising, as well as exchanges of experiences are needed to mainstream victim protection in the practice of professionals involved in the criminal justice system. The end goal of this should be a paradigm shift and the creation of a victim-centred and human-rights based culture in addressing THB. In the end, this should also serve better law enforcement and help to manage migration.

Trafficking in human beings is an assault on human dignity, a serious human rights violation and a crime which profits from the vulnerabilities of various groups, such as migrants with an irregular status, women and children. If the response to THB falls short of the victim-centred and human-rights based approach as promoted by the Anti-Trafficking Directive, and instead leans too strongly on the side of law enforcement or gets lost in the fight against illegal migration, it is likely to further spin the cycle of exploitation and offend the dignity of victims. The criminal justice systems in Member States should therefore derive their response to THB – in addition to other provisions – from Article 1 of the Charter of Fundamental Rights of the European Union which states that 'human dignity is inviolable. It must be respected and protected.' Further training should help criminal justice professionals to fully embrace the victim-centred approach of the EU Anti-Trafficking Directive.

7. Cooperation between EU Member States

Key findings

In the context of increased migration to the EU, the importance of Member States' collaboration in the prevention, detection and ensuring of rights of THB victims becomes ever more pressing. With different Member States playing the role of entry, transit, and destination countries in the increasingly complex criminal operations spanning across multiple locations, effective collaboration between countries and support from the European agencies are crucial for an effective countering of the crime. When more than one EU Member States is affected by a trafficking case, or an EU Member State and a non-EU country, cross-border cooperation on the referral of victims of trafficking to appropriate services to allow them to access their rights is necessary.

Research for this study revealed that: 1) effective cooperation between the Member States has been progressively increasing over the years and examples of good pan-EU, regional and bilateral practices can be identified, 2) Member States benefit from and appreciate different forms of support provided by various EU agencies and instruments, and 3) a number of challenges and areas for improvement remain, in particular relating to a need for more accountability of 'multi-agency' approaches. Further enhancement of the cooperation would benefit, amongst others, from harmonisation of legal and law enforcement frameworks across the Member States, from establishing and maintaining contacts amongst the stakeholders, and from a standardisation of the cooperation models, such as the Transnational Referral Mechanisms. Ensuring the protection of victims' rights and addressing the victims' perspective in the framework of transnational cooperation is of utmost importance. This remains particularly relevant in the context of the application of the Dublin Regulation.

Chapter 7 offers insights in the 'Cooperation between Member States and EU Support'. This final chapter aims to assess the level of cooperation between various Member States, EU Agencies and the current mechanisms in place combating trafficking in human beings. The research focuses on:

- National Transferring Mechanisms (TRM) (7.2.1);
- Regional initiatives (7.2.2);
- EU funds and international cooperation enhancement (7.2.3);
- Knowledge sharing platforms (7.2.4);
- EU Agencies (7.2.5);
- EMPACT (7.2.6);
- Human rights approach (7.2.7);
- Ensuring victims' rights (Dublin Regulation) (7.2.8);
- Cooperation in criminal and judicial proceedings (7.2.9).

Findings are substantiated with EU Agencies publications but are mainly grounded on interviews from the 27 EU Member States.

7.1. Context

Directive 2011/36/EU stipulates that 'close cross-border cooperation, including the sharing of information and the sharing of best practices, as well as a continued open dialogue between the police, judicial and financial authorities of the Member States, is essential.' Further, enhanced cooperation with Europol and Eurojust, as well as the setting up of joint investigation teams are recommended. The establishment of the office of the EU Anti-Trafficking Coordinator was an initiative taken to begin to harmonise legal and policy frameworks across the Member States. The creation of the office was also designed to help increase collaboration of relevant stakeholders for a coherent approach. Similarly, the EU Network of National Rapporteurs or Equivalent Mechanisms

on Trafficking in Human Beings and the EU civil society platform constitute important mechanisms for both harmonisation of the efforts and for a strengthening of collaboration between Member States. Regarding the protection of victims' rights, the EU Strategy towards the Eradication of Trafficking in Human Beings 2012-2016 outlined a model for an EU Transnational Referral Mechanism (TRM) in which NRMs would be linked 'to better identify, refer, protect and assist victims.'⁴⁷³ As set out in Priority C of the 2017 Commission Communication Reporting on the follow-up to the EU Strategy towards the Eradication of trafficking in human beings and identifying further concrete actions, 'the Commission will continue to encourage the national authorities and EU agencies to address trafficking as a form of organised crime that does not stop at national or EU borders, and cooperate with non-EU countries.'⁴⁷⁴

The 2018 Staff Working Document showed that generally, Member States report on increasing cooperation at local, national, and transnational level,⁴⁷⁵ while at the same time, emphasise the need to strengthen international cooperation and coordination between relevant intelligence, law enforcement, prosecutorial and judicial authorities. Specifically, a lack of experience in cross-border cooperation was noted as potentially negatively impacting investigations and criminal proceedings and several national authorities have proceeded to either bilateral cooperation or other channels, such as via Europol or Interpol.⁴⁷⁶ The 2018 Document does not specifically address the focus of the current research, which is the gender perspective and the migration context at the level of cooperation between Member States. An interview with the Office of the Anti-Trafficking Coordinator revealed that while efforts were invested in gathering data on THB specific to the migration context, Member States largely failed to provide extensive information in this regard. This is reflected in the 2018 Progress Report. For the Third Progress Report, which is due in the fall of 2020, the reporting on THB in migration context has been simplified (EU01).

Specific to the context of increased migration flows to the EU, the 'hotspots approach' was launched as part of the European agenda on migration in April 2015. Several hotspots were set up to facilitate cooperation on the ground between Member States on the frontline, who faced the arrival of asylum seekers and other migrants, and the relevant EU agencies. In 2018, in a joint statement by ten EU agencies,⁴⁷⁷ the agencies confirmed their commitment to work collaboratively, i.e. their participation in the efforts towards the eradication of THBs. This marks an important step towards increasing levels of synergies and shared efforts on the EU level.

7.2. Research findings

7.2.1. Transnational Referral Mechanism (TRM)

A recent study revealed that although EU-wide TRM Model is not in place,⁴⁷⁸ all Member States report some form of transnational cooperation and this has been largely confirmed by the data collection for this study. Only Bulgaria and Romania reported having a formal, working TRM in place. The TRM is reported to be gender- and child-sensitive. Bulgaria, however, also reports that despite TRM in place, often authorities in countries of destination of THB (mostly Western Europe) are quick to return identified victims back to their countries of origin without first granting their rights such as a recovery and reflection period. This places authorities in countries of origin in difficult situation,

⁴⁷³ [COM \(2012\) 286 final](#).

⁴⁷⁴ [COM \(2017\) 728 final](#), p.6.

⁴⁷⁵ [SWD \(2018\) 473 final](#), p.66.

⁴⁷⁶ *Ibid*, p.43.

⁴⁷⁷ European Commission, [Together Against Trafficking in Human Beings: Heads of ten EU Agencies commit to working together against trafficking in human beings](#), 2018.

⁴⁷⁸ Ecorys in consortium with the ICMPD and the University of Warsaw was contracted in 2019 by DG Home to carry out a study on NRMs and TRMs in the EU. The report produced in the scope of the research has not been published yet.

being informed about often multiple arrivals in extremely short notice (BG01). Portugal reports that practices established through a 2010 ICMPD-led project 'Transnational Referral Mechanism for Victims of Trafficking between Countries of Origin and Destination (TRM-EU)' are still in place, albeit they are not of mandatory character. To this end, a recent conference on the TRM-EU revealed low identification rates by migration and anti-trafficking stakeholders as well as the lack of follow-up procedures as some of the key challenges.⁴⁷⁹ Transnational Referral Mechanism of the Baltic Region was established through 'Human Trafficking – Paving the Way for a Harmonized Operational Framework in the Baltic Sea Region'⁴⁸⁰ (HOF BSR) initiated by the Council of the Baltic Sea States. The initiative targeted 14 countries of which 10 are EU Member States. One of the main aims of the project is to develop a Transnational Referral Mechanism for professionals working in the Baltic Sea Region and beyond to provide them with the right tools to successfully assist victims. The project was initiated based on the premise that Baltic Sea Region countries face similar challenges while assisting victims internationally: differences in legislation, lack of knowledge about identification and assistance system in a different country, different scope of services and criteria to receive assistance and language barrier.⁴⁸¹ Other past initiatives implemented with the aim of establishing TRMs included the RAVOT (2014-2016) project (HU, NL, BE). The aim of the project (subsequently expanded to include also Switzerland) was to 'map and improve the transnational referral mechanism among the participating countries, with a special focus on victims of Hungarian origin who were or are exploited in Belgium, in the Netherlands or in Switzerland'⁴⁸². It resulted in creation of a website designed as resource material for social workers, legal experts, law enforcement authorities, victim support services, civil servants and other service providers active in the fight against human trafficking.

Cooperation in referral of victims of THB evolves through bilateral communication and coordination, multilateral agreements, key stakeholder meetings and other policy and operational instruments. Examples of bilateral cooperation include a Romanian-French Working Group on Unaccompanied Children⁴⁸³ or co-operation between the Austrian and Hungarian child protection and police bodies is in place for the return and subsequent assistance of Hungarian children.⁴⁸⁴ In Austria, Drehscheibe has developed a special repatriation model for children and young persons with the EU-members Romania and Bulgaria (as well as with a few more non-EU countries in the region). Special monitoring of every single case enables verification and provision of further support and assistance to the children concerned after their return.⁴⁸⁵ Countries report having Liaison Officers in other Member States (for example Portugal has one in Spain, and Romania has one in Portugal) which facilitates co-operation with these countries in the investigation of THB offences.⁴⁸⁶ Some Member States report that although they do not participate in formal or informal TRMs, successful cooperation between organisations assisting victims of trafficking has been established (LV, SL, FI, PL), while in other cases, involvement of NGO's in TRMs can be improved (NL). The importance of 'warm hand overs' of cases across borders to ensure that victims are treated adequately and in order to reduce the risk of them falling into the hands of traffickers again is being

⁴⁷⁹ ICMPD (2019, [slide 4](#)).

⁴⁸⁰ More information is available [here](#).

⁴⁸¹ Ibid.

⁴⁸² RAVOT-EUR [website](#)

⁴⁸³ GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Romania. Second Evaluation Round](#), 2016.

⁴⁸⁴ GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Hungary. Second Evaluation Round](#), 2019, p.46.

⁴⁸⁵ Council of Europe, [General Information – Situation on Trafficking in Human Beings in Austria](#).

⁴⁸⁶ GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Portugal. Second Evaluation Round](#), 2017, p.36.

underscored. To do so would also be compliant with the UNODC anti-trafficking principle of Protection and as signatory members Member States have in principles agreed to follow the objectives and guidelines.

7.2.2. Regional Initiatives

Cooperation between Members States has strong regional focus, with countries developing effective and extensive collaboration with their neighbours. Several countries emphasised that one of the most significant institution supporting countries' efforts to combat THB is the Council of the Baltic Sea States Task Force against Trafficking in Human Beings (CBSS TF-THB) (DK, EE, FI, LV, SE). Examples of regional cooperation include 'Adstringo' and 'STROM II' projects,⁴⁸⁷ or the aforementioned recent efforts to establish a Baltic Sea region TRM. In 2015, Portugal, Spain, France, Italy, Malta, Morocco, Mauritania, Algeria, Tunisia, and Libya signed the 'Lisbon Declaration', which provided the basis for cooperation in the prevention of, and fight against, organised crime, irregular migration and trafficking in human beings, organs, cells and tissues. Further, 'Lisbon Conclusions' were developed, which aim at reinforcing regional, bilateral, and multilateral cooperation, including the fight against THB.⁴⁸⁸

In 2016, Belgium, Luxembourg, and the Netherlands signed a declaration of intent on cooperation in the fight against THB.⁴⁸⁹ Marking its 10th anniversary, the Network of National Anti-trafficking Coordinators from South-Eastern Europe (SEE) published a Strategic Paper for the period 2020-2024.⁴⁹⁰ The document sets out a number of goals for the upcoming period. Specifically relating to migration, which has been highly impacting the region, these include: 'maintaining the focus on the continued mixed migration flows through the Network's member states and continue advancing the skills of frontline responders to enable a holistic and human rights-based response from the perspective of combating human trafficking.'⁴⁹¹ The Strategy also sets the goal of 'reviewing practices that have proven successful, such as the use of Joint Investigation Teams.'⁴⁹² Ireland also leads the North Atlantic Maritime Project with the United Kingdom, Spain, and Portugal within the Santa Marta Group; an organisation whose aim is to combat THB through strengthening cooperation between bishops and law enforcement from around the world.⁴⁹³ As a consequence of Ireland's participation in the Santa Marta Group, Ireland is conducting investigations into trafficking in human beings in the fishing industry. Under the auspices of the North Atlantic Maritime Project, in 2018, the Garda Síochána have conducted a number of operational interventions and investigations. As a result of these, a total of 16 THB victims were identified in the fishing industry in 2018.⁴⁹⁴

Data collection for the purpose of this study revealed that Member States refer to these regional efforts as particularly important and effective in countering THB. Further, based on the data collection for this study, it was noted that cooperation is much easier with neighbouring countries than with those separated by significant geographic distance within the EU.

⁴⁸⁷ For more information about the 'STROMII' project and the 'Adstringo' project.

⁴⁸⁸ GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Portugal. Second Evaluation Round](#), 2017, p.40.

⁴⁸⁹ The text of the declaration is available [here](#).

⁴⁹⁰ NATC SEE, [Strategy Paper 2020-2024](#), 2020.

⁴⁹¹ NATC SEE, [Strategy Paper 2020-2024](#), 2020, p.5.

⁴⁹² Ibid.

⁴⁹³ Santa Marta Group. [Church and Law Enforcement Combating Modern Slavery](#).

⁴⁹⁴ Department of Justice and Equality, Anti-human Trafficking Unit, [Annual Report 2018: Trafficking in Human Beings in Ireland](#), 2019, p.19.

A lack of steady financing for regular meetings was raised as one of the challenges in maintain effective regional cooperation. As members of the Network of National Anti-trafficking Coordinators from South-Eastern Europe mentioned, each regional meeting requires seeking funds for the organisation of it. None of the regional initiatives, however, was reported to have a specific gender dimension. Issues of gender are addressed on a project basis by the Council of the Baltic Sea states, but it is not mainstreamed throughout all their activities.⁴⁹⁵ Trainings and knowledge exchange meetings organised in collaboration between the Benelux countries have focused on gender and issues relating to child victims in the past.⁴⁹⁶

7.2.3. EU funds and enhancing international cooperation

Following the Commission's Comprehensive Policy Review of anti-trafficking projects, published in 2016,⁴⁹⁷ it was observed that fewer than 20 % of funded projects were gender-specific. Such projects related to trafficking for the purpose of sexual exploitation, trafficking of women and children, and/or trafficking of women. These projects also had the lowest average funding per project (compared to those on other forms of exploitation).

The 2017 Communication identifies the support of anti-trafficking objectives within and outside the EU as cross cutting action. It further takes particular account of the gender dimension of the phenomenon, of high-risk groups, as well as of high-risk sectors through various EU funding programmes.⁴⁹⁸ At the same time, while a gender perspective has been integrated in projects tackling THB across the Central Mediterranean route, and specifically in the context of the EU Trust Fund for Africa and in the 2017 Asylum, Migration and Integration Fund (AMIF) and Internal Security Fund (ISF) Police calls,⁴⁹⁹ it remains to be investigated to what extent a gender perspective was incorporated into project across all Member States. The 2019 AMIF Call for proposals on Topic 5, i.e. on support to victims of THB,⁵⁰⁰ specifically refers to the context of migration and the disproportionate targeting of women and girls trafficked for the purpose of sexual exploitation.

The EU continues to support cooperation between Member States on various aspects of countering THB, as well as on increasing individual Member States' capacities. In the past decade, a few contributions were made to the development and understanding of TRMs through relevant EU-funded interventions.⁵⁰¹ Specific to the migration context, in 2018 and 2019, some 120 Hungarian officials and social workers from the Immigration and Asylum Office were trained through a project funded by the European Union's ISF.⁵⁰² Specific to Member State cooperation, within the framework of the ISF, the European Commission published a call for proposals on joint action against trafficking

⁴⁹⁵ For more information please visit [Cilvek Tirdzneciba](#).

⁴⁹⁶ Ministry of Justice Luxembourg (2020). 2020 Report on the progress made in the fight against trafficking (shared by the ministry with the researcher).

⁴⁹⁷ European Commission, [Study on comprehensive policy review the European Commission](#), 2014.

⁴⁹⁸ [SWD \(2018\) 473 final](#).

⁴⁹⁹ Ibid.

⁵⁰⁰ European Commission, [2019 AMIF Call for proposals Topic 5 – Support to victims of trafficking in human beings](#), 2019.

⁵⁰¹ These include RAVOT-EUR – Referral and assistance for victims of trafficking in human beings in Europe (2014-2016), The Transnational Action (TACT) project (2012-2016), or Coordinated Approach for the Reintegration of Victims of Trafficking (CARE), implemented 2013-2015, HESTIA ((EU) – Preventing human trafficking and sham marriages: A multidisciplinary solution, and the COPSAT project (Joint Cooperation between Police and Social Service against Trafficking) launched by the Swedish Police with the aim to establish a partnership of law enforcement bodies, social services and NGOs in Sweden, Estonia, Romania and Poland.

⁵⁰² 'Successful Identification of Victims of Trafficking in the Procedures of the Immigration and Asylum Office'. GRETA, [Report on Hungary under Rule 7 of the Rules of Procedure for evaluating implementation of the Council of Europe Convention on Action against Trafficking in Human Beings](#) 2018.

in human beings addressing the culture of impunity (ISFP-2019-AG-THB) in January 2020.⁵⁰³ Other recent EU-funded projects which are aimed at increasing international good practice sharing include: 'Financial investigations as a means to combat THB', which resulted in a publication of a financial investigation Handbook in relation to trafficking in human beings,⁵⁰⁴ or 'Chinese Trafficking in Human Beings – Chinese THB'.⁵⁰⁵ Funded through the ISF, the project is an example of highly specific coordinated engagement, where a national group is being researched and investigated. Other examples of projects targeting trafficking of one national group has been the 'Etutu' project, which involved 13 Member States and led by Germany.

Overall, AMIF funds are considered very valuable as they: 1) finance research, and by this encourage collaboration between government actors and NGOs (NL); 2) supports innovative ways of working (FI); and 3) ensures gender dimension is included in the project design (FI). In addition, Bulgaria acknowledges the EU financial support for information exchange among investigators and law enforcement and prevention initiatives, while Spain singles out funding for capacity building as particularly useful. At the same time, interviews in Austria revealed that since nearly half of the trafficked persons in Austria are EU nationals, it is important to train authorities to address the issue of EU citizens trafficking, also using AMIF funds.⁵⁰⁶

7.2.4. Knowledge sharing platforms

Since a lack of direct contacts to counterparts in other Member States, and a limited understanding of the laws and procedures governing anti-trafficking work in other countries was raised as one of the key challenges in effective international cooperation, the efforts on the side of the European Union are noted as highly valuable. In particular, the work of the EU Anti-Trafficking Coordinator's office on facilitating both the EU network of national rapporteurs and equivalent mechanisms, as well as the Civil Society Platform are considered as particularly useful in building connections between various stakeholders in Member States (BG, ES, FI, LT, LU, MT, RO, SE, SI, SK). The EU Anti-Trafficking Coordinator's office is recognised as a valuable platforms for sharing good practices, and establishing informal contacts between various individuals, even though concerns were raised about the transparency of the admission process to the Platform (PL04). It is also worth noting that the office has played fundamental role in dissemination of the EU strategy on THB to Member States. To this end, personal commitment and leadership of the former Anti-Trafficking Coordinator, Dr Myria Vassiliadou, was instrumental in ensuring that victims' rights was a key aspect of the work that the office undertook.⁵⁰⁷ Based on available data, it was observed that Dr Vassiliadou's focus on the gender dimension of trafficking and efforts towards criminalisation of prostitution were highly appreciated by the stakeholders in various Member States (SE01). For example, data collection in Luxemburg revealed that 'gender dimension, as well as child sensitivity, were always stressed by the EU ATC in all meetings (LU01).' At the same time, suggestions were made for further improvement and maximisation of the Rapporteurs Network's meetings. These included: 1) the possibility of having politicians attend some of the bi-annual meetings, so that more political commitment could be gained (SE02); 2) the need for the rapporteurs attending the meetings to be independent (not associated with the relevant ministries), to achieve a setting without constraints and to facilitate open and honest discussions; and 3) more reporting efforts on the side of individual rapporteurs,

⁵⁰³ For details of the call see: European Commission, Migration and Home Affairs. [Call for proposals on joint action against trafficking in human beings addressing the culture of impunity \(ISFP-2019-AG-THB\)](#), 2020.

⁵⁰⁴ ALEFA, [Trafficking in Human Beings Financial Investigation Handbook](#), 2018.

⁵⁰⁵ European Commission, [Factsheets: Internal Security Fund - Police \(ISFP\) Justice Programme – Drugs Policy Initiatives \(JUST-DRUGS\)](#), 2020.

⁵⁰⁶ Austria Country Report (internal). On file with the authors.

⁵⁰⁷ This has been noted through interviews conducted for this study, but also seen in a letter signed by numerous civil society organisations from across Europe in January 2020, in support of the work of Dr Vassiliadou. See: European Network of Migrant Women, [Letter regarding the mandate of the EU Anti-Trafficking Coordinator that ends in February 2020](#), 2020.

given that their involvement is currently very much on a voluntary basis (ES02). Similarly, the EU ATC focus on gender exploitation led to the overlooking of other forms of THB, and consequently to less attention being given to other forms of trafficking, such as domestic servitude, debt bondage, et cetera EU03). Nevertheless, Member States acknowledge the value of the EU ATC work in following the implementation of the Directive, while interviews with the EU ATC officers revealed that the on-going efforts into a systematisation of data collection across the EU and cooperation of the national anti-trafficking rapporteurs and equivalent mechanisms, increasingly result in a clearer picture of the THB situation across the EU (EU01), which is crucial for evidence-based policy making.

The European Migration Network (EMN) is another knowledge sharing platform. For example, the EMN was asked for assistance by the Luxembourg authorities to identify how other Member States deal with significant challenges of: 1) the inability to transport a THB victim who is at risk to a place outside Luxembourg, with Luxembourg being too small to assure protection; and 2) formal inability of Luxembourg to provide assistance to detected THB victims who were exploited abroad (notably in third countries). The Luxembourg authorities reported that EMN helped to distribute these questions among other Member States and some interesting and helpful insights were collected and transmitted to Luxembourg.⁵⁰⁸ Other organisations reported to be important by Member States include the Academy of European Law (ERA), the European Judicial Training Network (EJTN), and Association of Law Enforcement Forensic Accountants (ALEFA) (SI03). For the needs of the ALEFA network, Member States report to having appointed a state prosecutor, who is the contact point for financial investigations in the field of human trafficking (SI03).

7.2.5. EU Agencies

Several EU agencies play an important role in both supporting individual Member States in their effort to counter THB and in fostering cooperation between two or more Member States. The majority of Member States reported that European Police Office (Europol), EU Judicial Cooperation Unit (Eurojust), European Border and Coast Guard Agency (Frontex), European Asylum Support Office (EASO), and EU Agency for Law Enforcement Training (CEPOL) as being particularly useful. The EU Agency for Fundamental Rights (FRA), European Institute for Gender Equality (EIGE) and European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (LISA) are also mentioned by Member States as valuable sources of knowledge and expertise, albeit to a limited extent.

In the context of migration, EASO and FRONTEX both increase Member States capacities regarding the registration of newly arrived migrants, in particular in the setting of 'hotspots'. The two Agencies also offer capacity building instruments in the area of detection of victims of THB, such as trainings for trainers, toolkits, and guiding documents. Frontex particularly invests efforts into training national officers in the arrival countries. An interview, however, revealed that not all Member States are welcoming of the Frontex' support, with some Member States even declining to receive professional advice by the international experts who are mandated to enhance national efforts in the identification of potential THB victims among the newly arrived migrants (EU03). Data collection revealed also that in the context of increased migration to the arrival countries, detection of potential victims is less of a problem than an effective referral to adequate support following detection. However, since border police across Member States have largely different mandates, and thus different legal and operational possibilities, makes the establishment of a standardised procedure challenging, if not impossible (EU03).

⁵⁰⁸ Luxembourg Country Report (internal). On file with authors.

Several Member States report EASO resources as being highly useful and widely applied by their respective national migration officers (AT, BG, DK, LV, MT, NL, SI). The Agency was reported as a 'key actor in harmonising how trafficking should be taken into consideration in the asylum system' (FI02). To this end, in 2018, EASO launched the single Expert Network on Vulnerability, which incorporates activities formerly implemented under the EASO Network on Activities of Children and the EASO Expert Network on Trafficking in Human Beings. The Network's first meeting tackled the issue of THB (EU02). The purpose of the Network is 'to improve the identification and response to the special needs of vulnerable persons by reinforcing practical cooperation between members.'⁵⁰⁹ Examples of recent EASO initiatives include capacity building support around migration, which involves training for trainers on THB delivered to 22 officials from ten Member States.⁵¹⁰

It was highlighted in an interview that the effectiveness of cooperation with the Member States is subject to political will and current public sentiments regarding migratory processes (EU02). The role and impact of EASO's involvement in the 'hotspots' is, however, not without controversy. The main critique arises from the fact that the Agency has in many instances stopped supporting the Member States authorities, and has instead effectively taken over their work in carrying out vulnerability assessments in a form of shared administration. This aspect has provoked a discussion not only about the factual scope of EASO's engagement, but also about a lack of corresponding accountability characterising EU Agencies' shared administration in 'hotspots' and beyond.⁵¹¹

Interviews for this study revealed, however, that the trend of EASO's 'hands on' participation in individual migrant case processing has been reversed. Currently, EASO is limiting their involvement in the evaluation of individual cases, and is instead focusing more on capacity building (EU03). Overall, the Agency has been growing and will soon be transformed into the EU Agency for Asylum. The issue of THB has been similarly gaining footing in the overall mandate of the Agency, with more attention being paid to the related problems (EU02).

7.2.6. EMPACT

The European Multidisciplinary Cooperation Platform Against Criminal Threats (EMPACT) is reported as a key enabling framework for cooperation of law enforcement agencies across the EU. The 2018-2021 EU Policy Cycle lists THB as one of the ten priority areas.⁵¹² For each of the priorities, a 4-year multi-annual strategic plan (MASP) is developed. The projects under EMPACT further set out 1-year operational action plans (OAPs). Data for 2019 reveals that 825 arrests were made in relation to THB, while 94 organised crime groups (OCGs) were identified, investigated, or disrupted.⁵¹³ This can be compared with 93 arrests reported in 2018 and 337 victims identified in the same year, of which 53 were minors.⁵¹⁴ As such, the numbers indicate significant progress. While EMPACT is conceptualised as cooperation between various EU agencies and institutions, as well as third parties, three EU law enforcement agencies play leading role: Europol, Eurojust and CEPOL. Consequently, these three agencies were mostly referred to as 'useful' in combating THB by the Member States consulted in the course of this study.

CEPOL was reported by the Member States as a useful source of knowledge and skills for detecting and countering THB. Between 2019 and 2020, CEPOL organised a series of webinars and courses on

⁵⁰⁹ EASO, [EASO Vulnerability Expert network: kick off meeting, 25-26 April 2018](#), 2018.

⁵¹⁰ EASO, [Train-the-Trainers' Pilot Sessions on Inclusion Advanced and Trafficking in Human Beings](#), 2020.

⁵¹¹ G. Lisi and G. Eliantonio, [The Gaps in Judicial Accountability of EASO in the Processing of Asylum Requests in Hotspots](#), *European Papers*, Vol. 4, 2019, pp.589-601.

⁵¹² See: Europol, [EU Policy Cycle – EMPACT](#)

⁵¹³ Council of the European Union, [EMPACT: Implementation and monitoring \(factsheet\)](#), 2020.

⁵¹⁴ Europol, [2018 EMPACT Results](#), 2018.

topics related to THB. Importantly, these included a course on the 'Protection of THB victims'.⁵¹⁵ CEPOL's work was highlighted as innovative and advanced, and including the latest specialist knowledge and trends in the areas of research and technology. Further contribution to cooperation and knowledge exchange between law enforcement officers in the EU and elsewhere was noted (HR04).

Eurojust provides practitioners in the field of investigating and prosecuting THB with cooperation tools in cross-border cases. These include coordination meetings, coordination centres and Joint Investigation Teams (JITs). While 69 JITs were operating in relation to THB in 2019, which included 30 newly set-up JITs,⁵¹⁶ data collection for this study revealed that levels of participation in JITs differ significantly between Member States. Here, some have considerable experience while others reporting none JITs in the area of THB.⁵¹⁷ Bulgaria and Cyprus, for example, report on how the cooperation 'is much easier, avoiding formalities, and very effective. Cooperation is reported among prosecutors, police and is not only on investigation but also on victim protection' (BG03). At the same time, Romania signals a lack of efficient use of the evidence furnished by other Member States within the framework of JITs, which in some cases results in very light sentences for the perpetrators, including suspended sentences (RO01).

To this end, Eurojust's Final Evaluation Report on the Implementation of the Eurojust Action Plan against trafficking in human beings 2012–2016⁵¹⁸ concluded that 'while judicial cooperation mitigates to a great extent the risks inherent in THB cases by identifying at an early stage conflicts of jurisdiction and by sharing the burden of investigations through the determination of which state is in the best position to prosecute and on what count, THB due to their complexity require more cooperation at the EU level to ensure a holistic repressive approach, as a means of circumventing the difference in legislation and the difficulty of gathering solid and admissible evidence'.⁵¹⁹ Similar challenges are mentioned by individual Member States (DE, FI, PL). In 2017, a new JITs Model Agreement was published,⁵²⁰ which facilitates a clearer division of roles and responsibilities within JITs. However, it falls short of setting clearer rules 'regarding leadership, responsibility, accountability and liability issues (including for EU JHA agencies),' as it was advocated for by experts.⁵²¹

There are several instruments put forward by Europol to enhance a coordinated response to THB overall. Within the Agency, the European Migrant and Smuggling Centre's activities target two of the eight crime priorities and two crime enablers identified in the EU Policy Cycle; namely migrant smuggling and THB. Operational task forces focus and institutionalise the efforts of participating Member States and operational partners in the common investigations of identified high value targets. Joint Action Days (JADs) is another instrument during which participating Member States' and operational partners' law enforcement agencies conduct coordinated operational activities focusing on key crime hotspots and criminal networks across the EU. Seven EMPACT JADs have taken place in 2019.⁵²² Besides the operational results, the JADs are reported as being a good opportunity for authorities to get to know their counterparts in other institutions and in other

⁵¹⁵ CEPOL, [CEPOL train Law Enforcement Officials for the Protection of Trafficking in Human Beings Victims](#), 2019.

⁵¹⁶ Council of the European Union, [EMPACT: Implementation and monitoring \(factsheet\)](#), 2020.

⁵¹⁷ The first group include: BG, CY, DE, EL, ES, FR, HU, LU, LV, MT, RO, SK, PL. Member States reporting no experience in JITs specific to THB include: HR, SI, SL.

⁵¹⁸ Eurojust, [Implementation of the Eurojust Action Plan against THB 2012-2016. Final evaluation report](#), 2017.

⁵¹⁹ Eurojust, [Implementation of the Eurojust Action Plan against THB 2012-2016. Final evaluation report](#), 2017, p.23.

⁵²⁰ Europol, [Model Agreement for Setting up a Joint Investigation Team](#), 2017.

⁵²¹ E. Guild, S. Carrera, L. Vosyliūtė, A. Scherrer and V. Mitsilegas, [The Cost of Non-Europe in the Area of Organised Crime](#). Study for the European Parliament's Committee on Civil Liberties, Justice and Home Affairs, 2016, p.8.

⁵²² Europol, [476 Potential Victims of Human Trafficking Identified during the large-scale joint action days 2019](#), 18 October 2019.

Member States.⁵²³ In July 2019, a new instrument was introduced, namely the Joint Liaison Task Force Migrant Smuggling and Trafficking in Human Beings. It was launched to regularly bring together experts from more than 25 countries and support crucial cases.⁵²⁴

Data collection for this study also revealed critical voices regarding EMPACT, which was labelled as a 'black box' due to the sensitive nature of the information being shared (NL01). As much of what happens within the EMPACT project, cannot be shared externally, Member States report a lack of evaluation instruments of success rates of the EMPACT approach. Such add to the debate about the overall accountability and added value of coordinated law enforcement approaches, spearheaded by EU Agencies. As such, it has been argued that 'current methods for monitoring mutual trust in criminal justice cooperation in the EU need to be further improved.' It is advised further that 'a permanent and regular (objective and impartial) evaluation system should be established.'⁵²⁵ The European Parliament was also advised to call upon the European Court of Auditors to conduct an in-depth review and audit of all the funding spent in the context of the EU policy cycle and EMPACT projects, focusing 'on the actual use and effects of these projects (...) and their compatibility with ethical and fundamental rights standards in their implementation.'⁵²⁶

7.2.7. Human rights approach

It is noteworthy that data collection amongst the Member States for this study revealed a somewhat limited importance assigned to FRA in the framework of the fight against THB.⁵²⁷ While some Member States name the Agency as a useful source of information and guidance (BG, EE, EL, FI),⁵²⁸ there is room for extending FRA's mandate in regard to ensuring THB victims' rights.⁵²⁹ This could take form of stronger monitoring of fundamental rights impacts falling under the EU law in this area. Specifically, the problematic question of the EU Agencies' democratic accountability, as discussed earlier in case of EASO and EMPACT, and at times increased informality leaves the possibility that the EU criminal justice guarantees and principles, such as non-discrimination, proportionality and fundamental rights are not always upheld.⁵³⁰ Particular focus needs to be shed on the EU Charter provisions on justice and the rights of suspects in criminal proceedings, as these are the EU standards that ought to be guiding Member States' cooperation in the area of criminal matters. In this sense, FRA can play a stronger role in screening criminal and judicial processes, in particular those involving multiple Member States and law enforcement agencies.

7.2.8. Ensuring victims' rights (Dublin Regulation)

The application of the Dublin Regulation is flagged as potentially hindering the rights and best interest of victims of THB. Member States (AT, FI, NL, SE) report that potential victims of human

⁵²³ Ibid.

⁵²⁴ Europol, [New Task Force at Europol to Target the Most Dangerous Criminal Groups Involved in Human Trafficking and Migrant Smuggling](#), 02 July 2019.

⁵²⁵ E. Guild, S. Carrera, L. Vosyliūtė, A. Scherrer and V. Mitsilegas, [The Cost of Non-Europe in the Area of Organised Crime](#), Study for the European Parliament's Committee on Civil Liberties, Justice and Home Affairs, 06 April 2016, p.83.

⁵²⁶ Ibid.

⁵²⁷ FRA was approached for an interview within the scope of this study but the Agency's representatives declined based on reported limited work on the issue of THB in the context of migration in the recent years.

⁵²⁸ Recent and relevant publications include: FRA, [Relocation of unaccompanied children from Greece FRA input on the initiative of the European Commission and a group of Member States to relocate unaccompanied children](#), 2020; and FRA, [Guardianship systems for children deprived of parental care in the European Union with a particular focus on their role in responding to child trafficking](#), 2015.

⁵²⁹ For a discussion on a tension between FRA's mandate to advise and the prevailing human rights approach of monitoring and the reality of FRA's embedment in the EU's political context see: R. Byrne and H. Entzinger H. eds. [Human Rights Law and Evidence-Based Policy, The Impact of the EU Fundamental Rights Agency](#), Routledge, 2019.

⁵³⁰ See E. Guild, S. Carrera, L. Vosyliūtė, A. Scherrer and V. Mitsilegas, [The Cost of Non-Europe in the Area of Organised Crime](#), Study for the European Parliament's Committee on Civil Liberties, Justice and Home Affairs, 6 April 2016. The Study revealed for instance that FRA, amongst other EU Agencies responsible for fundamental rights and freedoms 'are systematically not included in internal security or COSI's activities' (p. 73), while it was reported that FRA was invited to COSI's meetings such invitations are of ad hoc nature.

trafficking are returned to the country of first entry (e.g. Italy or Spain), where they might have managed to escape from the network that trafficked or exploited them, even if clear indicators point to the person being a victim of trafficking within the EU.⁵³¹ Civil society organisations urge Member States to find a solution for (presumed) trafficked persons that fall under the Dublin Regulation and ensure that they can access their right to a reflection and recovery period and, most importantly, have access to residence in the EU outside the country of entry.

Similarly, EASO's Vulnerability Expert Network raises the issue of hurtful application of the Dublin Regulation to the THB victims and stopping push backs to the EU entry countries in cases when the victim was exploited there (EU02). Concerns have been raised regarding Hungary as an adequate country for return, given the prevailing anti-migrant sentiments and political atmosphere in the country (HU01). A positive recent development in challenging the Dublin application comes from the Netherlands, where the Court of The Hague ruled that Article 17(1) of the Dublin III Regulation was insufficiently taken into account in the

'They didn't inform me before they deported me. And because I had my baby with me, with the pain and all, they still take me back to Italy. I was sleeping at 4 o'clock in the morning when they knock at my door. It was the manager in [Name of the accommodation centre]. So he says the Guards are here to see me.' Voice of a THB victim interviews in Dublin in scope of the TRACKS research project.

Source : [Consolidated CEAR report](#)

Dublin decision of an applicant who claimed to be a victim of human trafficking in another Member State, i.e. Spain.⁵³² In fact, some Member States (FI, FR) report that in case there is justifiable suspicion that a victim will not benefit from adequate protection in the country of arrival, no 'push back' will be organised. Meanwhile, other Member States report that even if victims of THB are detected in their asylum procedures, persons will be sent back to the EU entry country, unless a crime was committed on their territory or an investigation was launched (DK,SE). However, such practices are possibly further enhancing vulnerability of the victims, who, in fear of the return, disappear from the asylum procedures until the Dublin process expires. Such persons become extremely vulnerable to the criminal groups (SE03, FI02). Belgium, Malta and Sweden report that the Dublin procedure was suspended while awaiting further information and guidance on cases of victims of THB.

There have not been any decisions to suspend a transfer based on the Articles, although these are considered to be relevant, but the practice has been to suspend the procedure while awaiting THB related developments and eventually to accept the responsibility of handling the application after a six months waiting period.⁵³³ However, Finland made an exception to the application of the Dublin Regulation. Starting in 2017, when it comes to specific cases of victims of THB that need to be returned to Italy, it has been decided that the decision on the returned would be taken on a case-by-case basis.⁵³⁴ In cases where a woman has been trafficked in Italy and is applying for asylum in Finland, but should be returned to Italy due to the Dublin Regulation, Finland would assess whether it should handle the asylum application. (FI01).

The Dublin process also places additional pressure on first entry countries. Data shows that in May 2019, the number of incoming asylum seekers transferred from other EU Member States to Italy, of

⁵³¹ [Submission to the European Commission by LSI NGO platform \(including LEFOE\).](#)

⁵³² EASO Case Law Database. [Case no NL19.18360.](#)

⁵³³ EASO 2020; BE, MT and SE country reports, on file with the author.

⁵³⁴ The change has been brought upon by the [2016 report of the Non-Discrimination Ombudsman](#), which stated, amongst others, that victims accepted into the National Assistance System would be returned to Italy under the Dublin regulation, regardless their particular situation, such as them having been exploited in Italy or having mental issues. Following this report, In the early 2017, the Finnish Immigration, together with partners (National rapporteur, Police Board and the National Assistance System for victims of Human Trafficking), conducted a Study Trip to Italy examining the conditions to which the Nigerian women should return.

which Germany is the primary transferring country, had surpassed the number of individuals who arrived via sea.⁵³⁵ Such pressure can mean that the needs of vulnerable asylum seekers, including potential THB victims, are not properly met.⁵³⁶

A report indicates that asylum seekers returning to Italy under Dublin rules face arbitrary access to accommodation, risks of violation of fundamental rights, risks of denial of access to the reception system, and sub-par reception conditions.⁵³⁷ Large numbers of returns are further complicated by a lack of standardised procedures, even in countries that have low transfer rates. According to the Portuguese Refugee Council, some of the challenges in this regard include: (1) a lack of formal guidelines to assist in the practical implementation of the Dublin procedures; (2) a lack of the relevant data suggested by the Dublin regulation contained in individual documents of the returning persons; (3) divergences regarding the legal basis and the scope of the right of applicants to be heard in Dublin procedures; and (4) a lack of clarity if all applicants are provided with a personal interview prior to sending them back.⁵³⁸

Spain, which is another 'arrival' country receiving significant numbers of sent back persons as per the Dublin rules, flags a lack of a system working at EU level to effectively address all trafficked persons who are sent back to other EU countries under Dublin, as 'specific measures should be taken, and it should be very clear in terms of a human rights approach that cases of victims of THB should be adapted and their protection should be prioritised' (ES03). Related to this, Finland has identified signs that young boys, specifically from the Maghreb area, are re-trafficked from one Member State to another and are used in different forms of exploitation, such as coercion into committing crimes, and sexual exploitation. To address this cross-Member State issue, a mechanism is needed where the reception services play a role on how these children are moved between Member States (FI02).

To this end, the 2020 EASO 'Guidance on the Dublin Procedure: operational standards and indicators'⁵³⁹ offers some guidance in terms of standardisation. The Guidance, however, does not specifically address the issue of THB victims. It was suggested in the course of the research that a legal analysis of how international regulations concerning THB and protection of victims entangle with the Dublin regulation would be useful (FI02). This is especially so, when considering that some Member States flag that the Dublin regulation clashes with the Council of Europe's Convention against trafficking in human beings. It has been seen as problematic that protection and human rights obligations in many cases take a secondary position, when compared with the Dublin regulation (FI02).

7.2.9. Cooperation in criminal and judicial proceedings

The research revealed varying degrees of success and effectiveness in cooperation in criminal and judicial proceedings. International cooperation regarding the European Investigation Orders in criminal matters are considered to be successful in Austria.⁵⁴⁰ However, they are based on a mutual exchange approach, and information is shared when the State responds to the request(s) from the

⁵³⁵ ASGI, [Dublin Regulation](#), 2019; L. Della Torre, A. Romer and M. Zoetewij, [The return of vulnerable asylum seekers to Italy: protecting victims of trafficking](#), 2020.

⁵³⁶ L. Della Torre, A. Romer and M. Zoetewij, [The return of vulnerable asylum seekers to Italy: protecting victims of trafficking](#), 2020.

⁵³⁷ Danish Refugee Council, [Mutual trust is not enough](#), 2018.

⁵³⁸ CPR, [Country Report: Portugal. Portuguese Refugee Council](#), 2020.

⁵³⁹ EASO, [Guidance on the Dublin Procedure: operational standards and indicators](#), 2020; EASO, [EASO Practical Guide on the implementation of the Dublin III Regulation: Personal Interview and Evidence Assessment](#), 2019. There, THB is mentioned solemnly in the context of minors..

⁵⁴⁰ Council of Europe, GRETA Groups of Experts on Action against THB, [Reply from Austria to the Questionnaire for the evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Parties. Third evaluation round](#), 2019.

receiving country. Croatia reports that 'the International Arrest Warrants and the European Arrest Warrants have proven to be useful tools for apprehensions and criminal charges.'⁵⁴¹

Meanwhile, other Member States mention the international judicial collaboration between Member States as generally being rather slow (NL, PI). Slovenia reports that in individual cases, procedural rules of a Member State in the execution of requests for international legal assistance have proved to be an obstacle in recent years.⁵⁴² In one case, problems obtaining an urgently needed permit to carry out a covert investigative measure were encountered. The delay happened because of the long time needed for the translation and execution of the requests. Only an immediate permit was effective. Relating to other individual cases, Slovenia reports 'a perceived lack of adequate knowledge of the issue by the counterparts in other Member States which led to less interest in prosecution and cooperation.'^(SI03)

It was further reported that foreign law enforcement agencies do not inform the Polish police about cases which originate from Poland, i.e. cases in which the victims or perpetrators are Polish, and some part of the exploitation must have taken place in the country. A lack of trust between authorities in different countries was identified as a possible reason (PL03). Further, Austria reports a lack of cooperation between countries in the execution of compensation, specifically relating to cases where the victims returned to Bulgaria. Here, even though all information was sent to the court on behalf of the victims, the compensation claim remains open at the time of preparing this report.⁵⁴³ Additionally, Council of Europe research in the Netherlands revealed another worrying trend, whereby representatives of civil society commented that 'the police tend to prioritise THB investigations which are more likely to lead to successful prosecution, e.g. involving victims from countries with which there is good police cooperation, for example in Central Europe.'⁵⁴⁴

Generally, Member State report similar challenges to international investigations and legal proceedings. The challenges include, amongst others: 1) differences in evidentiary processes in criminal cases of THB; 2) differences in judicial regulation, in particular lack of unified definitions of THB; 3) a lack of resources for lengthy and comprehensive international procedures; 4) a lack of flexibility in mutual legal assistance during the investigation and persecution; and 5) a lack of single points of contact and linguistic barriers.

7.3. Conclusions and recommendations

Data collected in the preparation of this report indicates that both cooperation between Member States and between EU agencies and Member States have been on the rise. To this end, both the EU Anti-Trafficking Coordinator's office and relevant EU agencies play an increasingly important role in stimulating and supporting effective cooperation between Member States in the fight against THB. At the same time, the specific context of migration and the scope of the migrant situation, requires more focused and coordinated efforts. In particular, there is a need to account for the specific vulnerabilities of children and women. The research revealed that, given the EU's extensive role in countering THB, more accountability mechanisms and better evaluation of various agencies are desirable and even necessary for ensuring the upholding of human and victims' rights.

⁵⁴¹ Council of Europe, [GRETA Reply from Croatia to the Questionnaire for the evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Parties. Third evaluation round](#), 2019.

⁵⁴² Slovenia country report, on file with the authors.

⁵⁴³ GRETA, [Evaluation report. Austria: Access to justice and effective remedies for victims of trafficking in human beings: Third Evaluation Round](#), 2020.

⁵⁴⁴ GRETA, [Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human by the Netherlands: Second Evaluation report](#), 2018.

Some of the key challenges in cooperation relating to countering trafficking for the purpose of sexual exploitation, are the different societal and legal approaches to prostitution across the EU.⁵⁴⁵ Cooperation on THB for the purpose of sexual exploitation is reported to be more difficult with law enforcement in countries where prostitution is legal. Member States consulted in the course of this research point to the need for more intensive work on the demand side of the crime. One interviewee mentioned that 'in order to address the gender dimension of the support, the EU anti-trafficking agencies should focus their attention more on the role of the 'sex purchaser' as the essence of the problem, and increase public awareness about the harms of prostitution' (LT04). In 2016, Sweden appointed an Ambassador at Large for Trafficking in Human Beings. One of the Ambassador's key tasks is to promote the 'Nordic Model', which refers to the criminalisation of the purchase of sexual services.⁵⁴⁶ In 2018, Sweden and France signed a memorandum of cooperation, outlining both countries' commitment to joint international efforts in decreasing the demand for sexual exploitation.

Correspondingly, a lack of transnational cooperation between European national labour inspectorates impacts counter-trafficking work around labour exploitation. As evidence shows, this is being taken advantage of by transnationally organised businesses (NL01). FRA recommends that once established, the new European Labour Authority could play a crucial role in supporting joint inspections. Here, it will be important to conduct unannounced inspections.⁵⁴⁷

With only a small number of countries reporting on operating TRMs (formal or informal), ensuring the execution of victims' rights in cases involving cross-border crimes and international referrals are aspects which remain problematic and require improvement. Member States underline a lack of easily identifiable focal or contact points in other countries as a significant challenge for effective and timely protection of the victims. More involvement from civil society organisations providing support to the victims is desired, as well as the setting of clear protocols which would safeguard victims' rights in transnational referrals and criminal procedures.

The research revealed the need for unified and standardised approaches to the issue of cooperation between Member States. Ideas put forward by interviewees include: 1) the implementation of a EU-wide transnational referral mechanism; 2) standardisation of the application of the Dublin Regulation in case of victims of THB; 3) prevention materials common to all EU Member States; and 4) an e-platform for anti-trafficking related law enforcement agencies, designed to share best practices of an effective criminal investigation.

Finally, the research identified recommendations for policy impact analysis needed on decisions that might affect the THB situation in Europe, in particular in the migration context (FI01). On the one hand, migration flows are reported to hamper the implementation of the directive, which puts an additional burden on the EU's migration policy. This further widens the gaps between the Member States in terms of the directive's implementation (NL01). On the other hand, the highly problematic conflation of smuggling and THB in EU policy-making raises the question of how management of migration flows and countering of irregular entries may in fact contribute to THB.⁵⁴⁸ Overall, it has been recommended that the interweaving of the regulatory frameworks on migration, and policies relating to the rights of THB victims require a re-examination, to ensure that the victims'

⁵⁴⁵ These include prostitution being legal and regulated (AT, DE, EL, HU, LV, NL), criminalisation of clients with no offence of solicitation (IT, FR, SE), criminalisation of both clients and sellers (HR, LT, RO) and prostitution being legal and uncontrolled but organised activities (brothels, procuring) are illegal (BE, BG, CY, CZ, EE, EI, ES, IT, MT, PT, PL, SI, SK.). See: EULOGOS Athena, [Prostitution in the EU, or how the lack of legal harmonisation goes against the EU's values](#), 2019.

⁵⁴⁶ For [more information](#) on the Nordic Model.

⁵⁴⁷ FRA, [Protecting migrant workers from exploitation in the EU: workers' perspectives](#), 2019.

⁵⁴⁸ See S. Carrera, V. Mitsilegas, J. Allsopp and L. Vosyliūtė, [Policing Humanitarianism: EU Policies Against Human Smuggling and their Impact on Civil Society](#), Hart Publishing, London, 2019.

best interest is given priority. To this end, a 2014 FRA study⁵⁴⁹ already problematised some Member States' efforts to manage migration by criminalising irregular entry, which resulted in putting suspicion on migrants and making them easy targets for exploitation.

The EU's overall approach to policing its external borders and the impact this has on increasing irregular migrants' vulnerabilities was also subject to criticism by the UN High Commissioner for Human Rights in 2017, who stated that 'we cannot be silent witness to a modern day slavery, rape and other sexual violence, and unlawful killings in the name of managing migration and preventing desperate and traumatised people from reaching Europe's shores.'⁵⁵⁰ In this light, organisations monitoring human rights in Europe recently flagged the potentially fatal demands by Frontex for 'special treatment for oversight, particularly on use of force and weapons'⁵⁵¹ as well as other problematic aspects of the 2019 Regulation, such as Frontex managing voluntary returns.⁵⁵² The 'policing approach' is also noted as largely inhibiting the work of civil society actors involved in humanitarian and solidarity response at the EU external borders.⁵⁵³

⁵⁴⁹ FRA, [Criminalisation of migrants in irregular situation and of persons engaging with them](#), 2014.

⁵⁵⁰ UN News, [Libya's detention of migrants 'is an outrage to humanity,' says UN human rights chief Zeid](#), 14 November 2017.

⁵⁵¹ Statewatch, [EU: guides, guns and guidelines. Reinforcement of Frontex runs into problems](#), 26 May 2020.

⁵⁵² [Regulation \(EU\) 2019/1896 of the European Parliament and of the Council of 13 November 2019 on the European Border and Coast Guard and repealing Regulations \(EU\) No 1052/2013 and \(EU\) 2016/1624](#).

⁵⁵³ See: S. Carrera, V. Mitsilegas, J. Allsopp and L. Vosyliūtė (2019). [Policing Humanitarianism: EU Policies Against Human Smuggling and their Impact on Civil Society](#), Hart Publishing, London, 2019; C. Simson, [Tackling smuggling in the Balkans: policy lessons](#), Forced Migration Review, Issue 64, 2020.

Annex 1 – Interviewee overview (EU Member States)

Institution	Abbreviation	Country	Position	Date of interview
European Commission	EUR01	-	-	n.d.
EU Agency/body (asylum)	EU02	-	-	n.d.
EU Agency/body (border control)	EU03	-	-	n.d.
International organisation (migration)	AU01	-	-	n.d.
CSO (migration)	AU02	-	-	n.d.
National Public Authority (executive)	BE01	Belgium	-	29 June 2020
National Public Authority (executive)	BE02	Belgium	-	24 June 2020
National Public Authority (executive)	BG01	Bulgaria	-	8 June 2020
CSO (gender)	BG02	Bulgaria	-	11 June 2020
National Public Authority (judiciary)	BG03	Bulgaria	-	16 June 2020
National Public Authority (executive)	BG04	Bulgaria	-	18 June 2020
National Public Authority (executive)	HR01	Croatia	-	16 June 2020
National Public Authority (judiciary)	HR02	Croatia	-	18 June 2020
International NGO	HR03	Croatia	-	23 June 2020
National Public Authority (executive)	HR04	Croatia	-	29 June 2020
National Public Authority (executive)	CYP01	Cyprus	-	3 June 2020
NGO	CYP02	Cyprus	-	16 June 2020
National Public Authority (judiciary/law enforcement)	CYP03	Cyprus	-	25 June 2020
NGO	CZ01	Czech Republic	-	25 June 2020
Private Sector	CZ02	Czech Republic	-	24 June 2020
National Public Authority (executive)	DK01	Denmark	-	
National Public Authority (executive)	DK02	Denmark	-	

National Public Authority (executive)	DK03	Denmark	-	
National Public Authority (judiciary)	DK04	Denmark	-	
National Public Authority (executive)	EST01	Estonia	-	15 June 2020
National Public Authority (judiciary/law enforcement)	EST02	Estonia	-	25 June 2020
National Public Authority (executive)	FIN01	Finland	-	22 June 2020
Ombudsman institution	FIN02	Finland	-	25 June 2020
National Public Authority (judiciary/law enforcement)	FIN03	Finland	-	26 June 2020
National Public Authority (executive)	FR01	France	-	
NGO	FR02	France	-	
NGO	DE01	Germany	-	15 June 2020
National Public Authority (executive)	DE02	Germany	-	18 June 2020
National Public Authority (executive)	DE03	Germany	-	23 June 2020
NGO	DE04	Germany	-	24 June 2020
National Public Authority (executive)	DE05	Germany	-	24 June 2020
NGO/Civil Society	DE06	Germany	-	25 June 2020
National Public Authority (executive)	DE07	Germany	-	26 June 2020
National Public Authority (executive)	GR01	Greece	-	19 June 2020
National Public Authority (executive)	GR02	Greece	-	29 June 2020
National Public Authority (executive)	GR03	Greece	-	2 July 2020
National Public Authority (executive)	GR04	Greece	-	3 July 2020
National Public Authority (judiciary/law enforcement)	GR05	Greece	-	4 July 2020
NGO	HU01	Hungary	-	23 June 2020
NGO	HU02	Hungary	-	23 June 2020
National Public Authority (executive)	HU03	Hungary	-	25 June 2020
NGO (gender)	HU04	Hungary	-	01 July 2020
National Public Authority (executive)	IR01	Ireland	-	30 June 2020
NGO (gender)	IR02	Ireland	-	01 July 2020
NGO	IR03	Ireland	-	02 July 2020
NGO	IT01	Italy	-	24 June 2020
NGO	IT02	Italy	-	26 June 2020

NGO	IT03	Italy	-	01 July 2020
National Public Authority (judiciary/law enforcement)	LV01	Latvia	-	05 June 2020
NGO	LV02	Latvia	-	05 June 2020
National Public Authority (executive)	LV03	Latvia	-	12 June 2020
Ombudsman institution	LV04	Latvia	-	10 June 2020
Academia NGO	LV05	Latvia	-	10 June 2020
National Public Authority (executive)	LT01	Lithuania	-	08 June 2020
National Public Authority (judiciary/law enforcement)	LT02	Lithuania	-	10 June 2020
National Public Authority (judiciary/law enforcement)	LT03	Lithuania	-	12 June 2020
NGO	LT04	Lithuania	-	19 June 2020
National Public Authority (executive)	LUX01	Luxembourg	-	22nd June 2020
National Public Authority (executive)	LUX02	Luxembourg	-	22 June 2020
National Public Authority (executive)	LUX03	Luxembourg	-	29 June 2020
National Public Authority (executive)	LUX04	Luxembourg	-	03 July 2020
National Public Authority (executive)	LUX05	Luxembourg	-	03 July 2020
National Public Authority (executive)	MT01	Malta	-	22 June 2020
National Public Authority (executive)	MT02	Malta	-	22 June 2020
National Public Authority (judiciary/law enforcement)	MT03	Malta	-	22 June 2020
National Public Authority (judiciary/law enforcement)	MT04	Malta	-	30 June 2020
NGO	NL01	Netherlands	-	12 June 2020
NGO	NL02	Netherlands	-	18 June 2020
NGO	NL03	Netherlands	-	18 June 2020
NGO	PL01	Poland	-	29 June 2020
Academia	PL02	Poland	-	01 July 2020
NGO	PL03	Poland	-	02 July 2020
NGO	PL04	Poland	-	06 July 2020
National Public Authority (judiciary)	PL05	Poland	-	7 July 2020
National Public Authority (executive)	PL06	Poland	-	15 July 2020
National Public Authority (executive)	PT01	Portugal	-	23 June 2020
NGO	PT02	Portugal	-	26 June 2020

NGO	PT03	Portugal	-	03 July 2020
Academia/ think-tank	RO01	Romania	-	22 June 2020
National Public Authority (executive)	RO02	Romania	-	24 June 2020
National Public Authority (executive)	RO03	Romania	-	24 June 2020
NGO	RO04	Romania	-	25 June 2020
National Public Authority (executive)	SI01	Slovenia	-	n.d.
National Public Authority (judiciary/law enforcement)	SI02	Slovenia	-	n.d.
National Public Authority (judiciary)	SI03	Slovenia	-	n.d.
National Public Authority (executive)	SI04	Slovenia	-	n.d.
NGO	SI05	Slovenia	-	n.d.
Academia/ think-tank	ES01	Spain	-	18 June 2020
National Public Authority (executive)	ES02	Spain	-	19 June 2020
NGO	ES03	Spain	-	25 June 2020
National Public Authority (executive)	SE01	Sweden	-	26 June 2020
National Public Authority (executive)	SE02	Sweden	-	26 June 2020
National Public Authority (executive)	SE03	Sweden	-	30 June 2020

Annex 2 – Country report template (EU Member States)

Country report for [add country]

Author: [please add your name and surname]

Note:

The template is divided into 5 sections corresponding to the main foci of the research paper to be produced for the European Parliament. **We would like to underline that the answers which you provide do not have to be long, in fact we prefer brevity. It is, however, important that they are concrete and evidence-based. This implicates that primarily desk-research is required with interviews to identify and fill gaps.**

In each section, specific notes were included to help you understand the objectives pursued, as well as additional sub-questions to guide your answers. General instructions for filling out this report are also available in Part D.

In addition to the report, we would also like you to fill out Part A Bibliography which should list the consulted sources and Part B List of interviews which should specify who was interviewed for the purpose of the report in your country. Referencing is done through noting down the institution, sector and function of the interviewee. **We will not, however, use personal data in the research paper.**

Part C contains the interview questions which correspond to the questions in the report template. You can adjust the questions to the specific areas of expertise of your respondents. We understand that in order to obtain reliable feedback, respondents should be asked questions which are relevant for their field of expertise.

I. General situation

Note: The aim of this research task is to summarise the main THB trends in the EU in terms of (1) the numbers of registered victims and their profile; (2) forms of exploitation; (3) modus operandi of traffickers. The research task focuses on new developments and trends, taking as a baseline past EU analyses of the general situation of trafficking, such as Europol (2016)⁵⁵⁴ or various past Commission reports⁵⁵⁵. The following issues remain outside the scope of this task: the assistance and protection provided to THB victims, including children and unaccompanied children; and relations of traffickers with other forms of criminality, structure of THB organised groups.

1.1 Please provide available data on THB.

If specific data is not available, please mark it with N/A. Please provide any important clarifications about the available data, including in particular its limitations and source, in footnotes. If you have data which is disaggregated further than requested, you can expand the table, adding new categories, but please leave and fill out all our categories as well.

	2017	2018	2019
Number of <i>identified</i> ⁵⁵⁶ THB victims:			
Number of adult victims:			
Women:			
Men:			
Number of children victims:			
Girls:			
Boys:			
Victims who are EU nationals:			
Victims who are non-EU nationals:			
Identified victims by form of exploitation:			
Sexual exploitation ⁵⁵⁷			
Labour exploitation ⁵⁵⁸			
Other ⁵⁵⁹			

⁵⁵⁴ www.europol.europa.eu/publications-documents/trafficking-in-human-beings-in-eu

⁵⁵⁵ https://ec.europa.eu/anti-trafficking/type-publication/report_en

⁵⁵⁶ **Identified victim** means a person who has been formally identified as a victim of trafficking in human beings by the relevant formal authority in a Member State. If you only have data for identified or registered victims, please only fill out the table to this extent and let us know that this is the case. If you have data for both identified and registered victims, please provide it all.

⁵⁵⁷ Including the exploitation of the prostitution.

⁵⁵⁸ Forced labour or services, including begging.

⁵⁵⁹ As per Directive 2011/36/EU.

Number of <i>registered</i> ⁵⁶⁰ THB victims:			
Number of adult victims:			
Women:			
Men:			
Number of children victims:			
Girls:			
Boys:			
Victims who are EU nationals:			
Victims who are non-EU nationals:			
Registered victims by form of exploitation:			
Sexual exploitation ⁵⁶¹			
Labour exploitation ⁵⁶²			
Other ⁵⁶³			

Any comments:

⁵⁶⁰ **Registered victims** encompass presumed and identified victims.

⁵⁶¹ Including the exploitation of the prostitution.

⁵⁶² Forced labour or services, including begging.

⁵⁶³ As per Directive 2011/36/EU.

1.1 How has the gap between identified and presumed THB victims changed over the last years? What are the main reasons for this change or lack of change?

The answer should include information obtained during interviews. Please offer a brief yet informative summary, backed by references. Try not to exceed a 250 word limit.

1.2 What are the most common forms of exploitation of THB victims in your Member States? Have any new forms of exploitation emerged over the last 5 years?

The answer should include information obtained during interviews. Please offer a brief yet informative summary, backed by references. Try not to exceed a 250 word limit.

1.3 How have the modus operandi of traffickers changed over the past 5 years in your Member State?

The answer should include information obtained during interviews. Please offer a brief yet informative summary, backed by references. Try not to exceed a 250 word limit.

1.4 Have migration flows influenced trafficking routes? Are there links between migrant smuggling and trafficking routes?

The answer should include information obtained during interviews. Please offer a brief yet informative summary, backed by references. Try not to exceed a 400 word limit.

II. Prevention and protection of victims

Note: The objective of this task is to identify patterns, past and emerging trends, obstacles, and best practices in the implementation of the Directive in the areas of prevention of trafficking and protection of victims, focusing on migration and gender issues. The following issues are of interest under this section: (1) criminalisation of the use of services of victims (both of sexual and labour exploitation) in order to reduce demand, including cooperation with the private sector in the case of THB for labour exploitation; (2) training of officials, including those on the first line (border and migration, police) and those conducting the investigations, on the rights of victims, especially women, children and migrants; addressing online recruitment, especially women for sexual exploitation; (3) identification and support of victims: women, TCNs and UAMs.

2.1 What progress has been made in the reduction of demand, in particular in terms of criminalisation of purchase of sex from THB victims? Have there been any investigations and convictions? What obstacles and challenges have been encountered?

The answer should include information obtained during interviews. Please offer a brief yet informative summary, backed by references. Try not to exceed a 400 word limit for the whole answer.

Progress in reduction of demand:

Criminalisation of purchase of sex (incl. investigations and convictions):

Obstacles and challenges to reduction of demand:

2.2 What progress has been made in enhancing the cooperation of the private sector in the reduction of demand for services provided by victims of THB for labour exploitation? What were the obstacles and challenges encountered by your Member State? What best practices have been established?

The answer should include information obtained during interviews. Please offer a brief yet informative summary, backed by references. Try not to exceed a 400 word limit.

Cooperation of the private sector in reduction of demand for THB for labour exploitation:

Obstacles and challenges:

Best practices:

2.3 Are officials who come into contact with THB victims adequately trained to provide assistance and support and to protect the rights of victims, including to avoid secondary victimisation and provide referral to general and specialised victim services?

The answer should include information obtained during interviews. Please offer a brief yet informative summary, backed by references. Try not to exceed a 400 word limit.

Training in general:

Training related specifically to the gender dimension of THB and THB in the context of migration:

2.4 What protection, assistance and support has been provided to the following categories of victims of THB in your Member State? Can it be considered adequate?

Women and girls with physical and developmental disabilities:

Children, including migrant children and unaccompanied minors:

2.5 Have sufficient resources (financial and human) been allocated to protection, assistance and support for victims taking into account the gender and migration dimension of THB?

2.6 What measures have been taken to address the increasing use of online platforms and social media by both traffickers and victims?

The answer should include information obtained during interviews. Please offer a brief yet informative summary, backed by references. Try not to exceed a 300 word limit.

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III. Asylum procedures

Note: The aim of Task 3 is to explore THB in the context of asylum procedures across EU Member States and focus on the gender aspects of the identification, assistance and follow up mechanisms within these procedures. The research task will focus on two main issues: (1) the way migration flows have impacted the THB situation in the EU; (2) effectiveness of mechanisms for identification of THB victims in asylum procedures.

If specific data is not available, please mark it with N/A and please explain below why it is not available. Please provide any important clarifications about the available data, including in particular its limitations and source, in footnotes. If you have data which is disaggregated further than requested, you can expand the table, adding new categories, but please leave and fill out all our categories as well.

	2017	2018	2019
All registered THB victims seeking international protection:			
All adult victims:			
Female:			
Male:			
All children victims:			
Girls			
Boys:			
THB victims seeking international protection by form of exploitation			
Sexual exploitation ⁵⁶⁴			
Labour exploitation ⁵⁶⁵			
Other ⁵⁶⁶			

⁵⁶⁴ Including the exploitation of the prostitution.

⁵⁶⁵ Forced labour or services, including begging.

⁵⁶⁶ As per Directive 2011/36/EU.

3.1 How have migration flows linked to asylum seekers impacted the trafficking in human beings' situation in the EU?

The answer should include information obtained during interviews. Please offer a brief yet informative summary, backed by references. Try not to exceed a 400 word limit.

3.2 What mechanisms have been put in place to detect and identify victims of trafficking at the various stages of the procedure for international protection, including admission, processing of applications?

The answer should include information obtained during interviews. Please offer a brief yet informative summary, backed by references. Try not to exceed a 400 word limit.

3.3 To what extent are the mechanisms discussed under 3.2 effective? Is there a significant gap between the identified victims seeking international protection and the presumed number?

The answer should include information obtained during interviews. Please offer a brief yet informative summary, backed by references. Try not to exceed a 300 word limit.

3.4 Does your Member State proactively screen applicants for international protection for indication of trafficking?

☐ Yes ☐ No

If **yes**, please provide an explanation as to how this is done and to what extent this is effective:

The answer should include information obtained during interviews. Please offer a brief yet informative summary, backed by references. Try not to exceed a 300 word limit

3.5 Are there any gender-specific protocols for identification of victims of trafficking in procedures for international protection?

☐ Yes ☐ No

If **yes**, please provide a reference to these protocols, explain their content, and provide a perspective on the extent to which they are effective:

The answer should include information obtained during interviews. Please offer a brief yet informative summary, backed by references. Try not to exceed a 300 word limit

3.6 Are there any different protocols and/or practices for detection/identification that apply to children in international protection procedures? To what extent are they effective?

The answer should include information obtained during interviews. Please offer a brief yet informative summary, backed by references. Try not to exceed a 300 word limit

IV. Efficiency of criminal systems and prosecution of offenders

Note: The aim of this task is to assess the improvements and the remaining challenges in the implementation of Directive 2011/36/EU with respect to the efficiency of the criminal systems across Member States and prosecution of offenders, focusing on migration and gender issues. First of all, Task 4 focuses on the efficiency of the criminal systems across Member States and prosecution of THB offenders not as such, but in the context of the implementation of Directive 2011/36/EU. This entails a narrowing of discussion to the content of this legal document, as opposed to considering all issues which could fall into this thematic area. Secondly, the scope is further narrowed down to gender and migration issues of importance to, or arising from, the workings of the criminal systems across Member States. Thirdly, based on the ToR, discussions related to assistance and protection of THB victims as such, and their adequacy vis-à-vis the Directive, are beyond the scope of this Task. However, assistance and protection of victims should be discussed insofar as they affect the efficiency of the criminal justice system when gender- and migration-specific issues come into play within proceedings.

4.1 How many criminal cases related to THB did your country register between 2017-2019?

Please fill out the table below to the extent possible and specify the source of data. Please also include any clarification on data that may be important for comparability of data between Member States and our understanding of the situation at Member States level.

	2017	2018	2019
Number of criminal proceedings (investigations) initiated on THB:			
Number of criminal cases on THB prosecuted (where an act of indictment was filed with the court):			
Number of court judgements on THB, including:			
Convictions for THB:			
Acquittals:			
Other solutions:			

Any comments on data:

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4.2 How many people were suspected, accused or convicted of THB in your country between 2017-2019?

Please fill out the table below to the extent possible and specify the source of data. Please also include any clarification on data that may be important for comparability of data between Member States and our understanding of the situation at Member States level.

	2017	2018	2019
Number of people suspected of THB:			
Number of women:			
Number of men:			
Number of people suspected of THB for sexual exploitation:			
Number of people suspected of THB for labour exploitation:			
Number of people suspected of THB for other forms of exploitation:			
Number of people accused of THB:			
Number of women:			
Number of men:			
Number of people accused of THB for sexual exploitation:			
Number of people accused of THB for labour exploitation:			
Number of people accused of THB for other forms of exploitation:			
Number of people convicted of THB:			
Number of women:			
Number of men:			
Number of people convicted of THB for sexual exploitation:			
Number of people convicted of THB for labour exploitation:			
Number of people convicted of THB for other forms of exploitation:			

Any comments:

4.3 What are the obstacles which impact the efficiency of criminal systems and prosecution of THB offenders in your Member States and how have these been tackled over the recent years (5 years)?

Please summarise what makes it difficult in your Member States to effectively investigate THB and prosecute offenders. You may wish to discuss factors which relate to THB as such (the type of crime that it is) and those that are specific to your country's response to THB (e.g. financial allocations, staff, policies prioritising/deprioritising THB, etc.). The answer should include information obtained during interviews. Please offer a brief yet informative summary, backed by references. Try not to exceed a 400 word limit. Some more specific information falling into the scope of this question may be requested below as well.

Obstacles to effective investigation and prosecution:

Solutions to increase effectiveness (last 5 years):

4.4 Are competent national authorities in your Member States entitled not to prosecute or impose penalties on victims of trafficking in human beings for their involvement in criminal activities which they have been compelled to commit as a direct consequence of being subjected to

☐ Yes ☐ No

If **yes to 4.4**, what are the specific provisions (please make sure to specify whether they concern 'non-prosecution' or 'non-application of penalties') and what has the practice been in applying them (i.e. have they proven effective):

The answer should include information obtained during interviews. Please offer a brief yet informative summary, backed by references. Try not to exceed a 300 word limit.

If **no to 4.4**, are there any other provisions (solutions/measures) which allow the authorities not to prosecute or not to impose penalties on victims of THB for crimes committed because of their victimisation?

☐ Yes ☐ No

If **yes**, please briefly describe those arrangements and provide an assessment as to how they have functioned in practice:

The answer should include information obtained during interviews. Please offer a brief yet informative summary, backed by references. Try not to exceed a 300 word limit.

4.5 What has been done in your Member States in the last 5 years to increase victim identification, taking specifically into account the gender and migration dimension of trafficking?

Consider e.g. the following questions: Have any specific protocols been developed which facilitate identification of women and girls, including non-EU nationals, as victims of trafficking for sexual exploitation? Or women and girls, including non-EU nationals, as victims of trafficking for exploitation in domestic servitude? Men as victims of trafficking for labour exploitation? Any sector specific protocols for economic sectors, e.g. for construction, agriculture, beauty? Any specific cooperation schemes between law enforcement, labour inspections/services and border-related services?

The answer should include information obtained during interviews. Please offer a brief yet informative summary, backed by references. Try not to exceed a 300 word limit.

4.6 What has been done in your Member States in the last 5 years to support victim cooperation in the criminal justice system, taking specifically into account the gender and migration dimension of trafficking? What specific assistance and protection measures are available to women and girls, migrants, unaccompanied children?

Consider e.g. the following questions: How are the specific needs of women and girls, men and boys taken into account and addressed within proceedings to make them more willing to cooperate (specific assistance and protection measures targeting victims)? How are the specific needs of victims who are migrants, including irregular migrants and unaccompanied children, taken into account and addressed to make them more willing to cooperate? What measures have been put in place to reduce victims' leaving the country before they are able to provide testimony?

The answer should include information obtained during interviews. Please offer a brief yet informative summary, backed by references. Try not to exceed a 300 word limit.

4.7 What resources have been assigned to investigation and prosecution of THB in your Member States in the last 5 years? Is such information available? Are the resources adequate?

Consider e.g. resource allocation included in various THB-related policies/national action plans etc. and include information obtained during interviews. Please offer a brief yet informative summary, backed by references. Try not to exceed a 250 word limit.

4.8 What training is available to law enforcement bodies (police, judicial police, border police/guard) or other institutions/agencies (e.g. labour services) to increase efficiency of criminal systems and prosecution of offenders taking into account the gender and migration dimensions of THB?

Please include information obtained during interviews. Please offer a brief yet informative summary, backed by references. Try not to exceed a 250 word limit.

4.9 What are the gaps and shortcomings in the strategies applied within your Member States criminal justice system in the context of gender and migration, and what could be done to fill those gaps and address those shortcomings?

The answer should include information obtained during interviews. Please offer a brief yet informative summary, backed by references. Try not to exceed a 300 word limit.

4.10 What good practices have been observed in your Member States in the last 5 years increasing the efficiency of the criminal justice system and prosecution of offenders in the context of gender and migration?

The answer should include information obtained during interviews. Please offer a brief yet informative summary of up to 3 practices, backed by references. Try not to exceed a 300 word limit for all of them. If we see that we could explore any of those to greater extent, we will request more information at the stage of review.

V. EU Member States cooperation

Note: The objective of this task is to assess cooperation between EU Member States and EU support to Member States. The chapter will (1) examine patterns, trends, obstacles, gaps and shortcomings in cooperation between Member States in the context of migration and the fields of prevention, asylum procedures and legal proceeding of cases of THB and focus will be placed on understanding how cooperation initiatives are gendered (horizontal processes); (2) examine patterns, trends, obstacles, gaps and shortcomings in the EU support provided to the Member States in the context of migration and the fields of prevention, asylum procedures and legal proceeding of cases of THB (vertical processes). The following will not be directly covered in the scope: (1) cooperation between Member States and third countries; (2) cooperation between EU agencies; (3) the effectiveness of the work and functioning of national bodies and mechanisms implementing Directive 2011/36/EU; (4) initiatives occurring before the period examined in the Second Report on the progress made in the fight against trafficking in human beings.

5.1 What are the main obstacles for effective cooperation on THB between your Member State and other Member States from the perspective of interviewed stakeholders?

The answer should include information obtained during interviews. Please offer a brief yet informative summary, backed by references. Try not to exceed a 300 word limit.

5.2 Does your Member State participate in TRMs? Are these TRMs actively used and, if yes/no, why? Are the TRM mechanisms gender sensitive/child sensitive? What could be improved in their functioning in the context of migration?

The answer should include information obtained during interviews. Please offer a brief yet informative summary, backed by references. Try not to exceed a 300 word limit.

5.3 What other forms of collaboration is your Member State engaged (formal and informal, bilateral and multilateral)? Which of those proved most effective and why?

The answer should include information obtained during interviews. Please offer a brief yet informative summary, backed by references. Try not to exceed a 300 word limit.

5.4 Do the Member State partake in joint investigative teams on THB cases? How is this cooperation evolving?

The answer should include information obtained during interviews. Please offer a brief yet informative summary, backed by references. Try not to exceed a 300 word limit.

5.5 How is implementation of the Dublin regulation managed? What are the challenges and modes to overcome these? How are the rights and interests of THB victims ensured?

The answer should include information obtained during interviews. Please offer a brief yet informative summary, backed by references. Try not to exceed a 300 word limit.

5.6 What international platforms for knowledge sharing and capacity building are most used by organisations and institutions in your Member State? How are the issues of gender addressed within these mechanisms?

The answer should include information obtained during interviews. Please offer a brief yet informative summary, backed by references. Try not to exceed a 300 word limit.

5.7 Which EU agencies play the most significant role in supporting the authorities in your Member State in tackling THB? How is the support organised? How is it assessed and evaluated? Where the support is lacking and needed the most in the context of migration (specific to prevention, asylum procedures and criminal proceedings)?

The answer should include information obtained during interviews. Please offer a brief yet informative summary, backed by references. Try not to exceed a 300 word limit.

5.8 Which forms of EU support proved the most effective in addressing the needs of trafficked women and girls, men and boys in the context of migration in your Member State and why? What could be improved to better ensure gender dimension of the targeted support?

The answer should include information obtained during interviews. Please offer a brief yet informative summary, backed by references. Try not to exceed a 300 word limit.

Thank you for your hard work!

Part A. Bibliography

(Please provide a list of all consulted documents here in alphabetic order.)

- 1) European Commission (2018), Staff Working Document accompanying Second report on the progress made in the fight against trafficking in human beings, SWD(2018)437 final, available at: link (accessed: 25.05.2020)

Part B. List of interviews

Interviewee name and surname	Institutional affiliation	Function in the institution	Data of interview	Level of anonymity
				a/b/c/d

Legend for the level of anonymity column:

- a) Full citation with name and organisational affiliation;
- b) Citation of only my position and organisational affiliation;
- c) Citation of only my organisational affiliation; or
- d) Anonymity and citation only in terms of sector (i.e. government/civil society/international organisation/etc.).

Part C. Interview questions

In brackets, we provide some indication of who we believe is best placed to provide given information. However, please feel free to ask those questions to other stakeholders which you believe can offer interesting and relevant feedback. The abbreviations used below include:

NREM – National Rapporteurs and Equivalent Mechanisms

ATC – Anti-trafficking coordinators

LEA – Law enforcement agencies (incl. border guard, border police, or similar)

CSO – Civil society representatives (especially working for victim support organisations)

MRI – Migration-related institutions (involved in consideration of international protection applications)

General situation

1. How has the gap between registered and presumed THB victims changed over the last years? What are the main reasons for this change or lack of change? (NREM/ATC)
 - a. Has the implementation of the THB directive led to improved identification of victims?

2. What are the most common forms of exploitation of THB victims in your Member States? Have any new forms of exploitation emerged over the last 5 years? (NREM/ATC/LEA)
 - a. What are the changes in the profile of the victims depending on the type of exploitation?
3. How has the modus operandi of traffickers changed over the last years? (NREM/ATC/LEA)
 - a. Are there any changes to the recruitment strategies of trafficking (separately for sexual exploitation; for labour exploitation)?
 - b. What are the most common ways for exerting control over the victims (separately for sexual exploitation; for labour exploitation)? How have these changed over the last 5 years? Are these ways gender-specific?
4. Have migration flows influenced trafficking routes? Are there links between migrant smuggling and trafficking routes? (NREM/ATC)
- 5.

Prevention and protection of victims

1. What progress has been made in the reduction of demand, in particular in terms of criminalisation of purchase of sex from THB victims? Have there been any investigations and convictions? What obstacles and challenges have been encountered? (NREM/ATC/LEA)
2. What progress has been made in enhancing the cooperation of the private sector in the reduction of demand for services provided by victims of THB for labour exploitation? What were the obstacles and challenges encountered by your Member States? What best practices have been established? (NREM/ATC/CSO/scholars)
3. Are officials who come into contact with THB victims adequately trained to provide assistance and support and to protect the rights of victims, including to avoid secondary victimisation and provide referral to general and specialised victim services? (NREM/CSO/LEA)
4. What protection, assistance and support has been provided to the following categories of victims of THB in your Member State? Can it be considered adequate? (NREM/ATC/CSO/LEA)
5. Have sufficient resources (financial and human) been allocated to protection, assistance and support for victims taking into account the gender and migration dimension of THB? (NREM/ATC/CSO/scholars)
6. What measures have been taken to address the increasing use of online platforms and social media by both traffickers and victims? (NREM/CSO/LEA/scholars)

Asylum procedures

1. How have migration flows linked to asylum seekers impacted the trafficking in human beings' situation in the EU? (NREM/ATC/MRI)
 - a. How is the modus operandi of trafficking of victims in the asylum system different from other modes of trafficking?

- b. What are the main factors that increase the risk of becoming victim of trafficking while using the migration flow?
 - c. When is the exploitation taking place – country of origin, on the route, in the country of destination?
2. What mechanisms have been put in place to detect and identify victims of trafficking at the various stages of the procedure for international protection, including admission, processing of applications? (NREM/ATC/MRI/LEA/CSO/scholars)
3. To what extent are the mechanisms discussed under 3.2 effective? Is there a significant gap between the identified victims seeking international protection and the presumed number? (NREM/ATC/MRI/LEA/CSO/scholars)
4. Does your Member State proactively screen applicants for international protection for indication of trafficking? (MRI/LEA/CSO)
5. Are there any gender-specific protocols for identification of victims of trafficking in procedures for international protection? (MRI/LEA/CSO)
6. Are there any different protocols and/or practices for detection/identification that apply to children in international protection procedures? To what extent are they effective? (MRI/LEA/CSO)

Efficiency of criminal systems and prosecution of offenders

1. What are the obstacles which impact the efficiency of criminal systems and prosecution of THB offenders in your Member State and how have these been tackled over the recent years (5 years)? (NREM/ATC/LEA/CSO/scholars)
2. Is the principle of non-criminalisation of THB victims implemented in practice? (NREM/ATC/LEA/CSO/scholars)
3. What has been done in your Member States in the last 5 years to increase victim identification given the gender and migration dimension of trafficking? (NREM/ATC/LEA/CSO/scholars)
4. What has been done in your Member State in the last 5 years to support victim cooperation in the criminal justice system given the gender and migration dimension of trafficking? What specific assistance and protection measures in criminal proceedings are available to women and girls, migrants, unaccompanied children? (NREM/ATC/LEA/CSO/scholars)
5. What resources have been assigned to investigation and prosecution of THB in your Member State in the last 5 years? Are the resources adequate? (NREM/ATC/LEA/CSO/scholars)
6. What training is available to law enforcement bodies (police, judicial police, border police/guard) or other institutions/agencies (e.g. labour services) to increase efficiency of criminal systems and prosecution of offenders taking into account the gender and migration dimensions of THB? (NREM/ATC/LEA/CSO/scholars)
7. What are the gaps and shortcomings in the strategies applied within your Member States criminal justice system in the context of gender and migration, and what could be done to fill those gaps and address those shortcomings? (NREM/ATC/LEA/CSO/scholars)

8. What good practices have been observed in your Member State in the last 5 years increasing the efficiency of the criminal justice system and prosecution of offenders in the context of gender and migration? (NREM/ATC/LEA/CSO/scholars)

EU Member States cooperation

1. What are the main obstacles for effective cooperation on THB between your Member State and other Member States from the perspective of interviewed stakeholders? (NREM/ATC/LEA/CSO/scholars)
2. Does your Member State participate in TRMs? Are these TRMs actively used and, if yes/no, why? Are the TRM mechanisms gender sensitive/child sensitive? What could be improved in their functioning in the context of migration? (NREM/ATC/LEA/CSO/scholars)
3. What other forms of collaboration is your Member State engaged (formal and informal, bilateral and multilateral)? Which of those proved most effective and why? (NREM/ATC/LEA/CSO/scholars)
4. Do the Member State partake in joint investigative teams on THB cases? How is this cooperation evolving? (NREM/ATC/LEA/CSO/scholars)
5. How is implementation of the Dublin regulation managed? What are the challenges and modes to overcome these? How are the rights and interests of THB victims ensured? (NREM/ATC/LEA/CSO/MRI/scholars)
6. What international platforms for knowledge sharing and capacity building are most used by organisations and institutions in your Member State? How are the issues of gender addressed within these mechanisms? (NREM/ATC/LEA/CSO/scholars)
7. Which EU agencies play the most significant role in supporting the authorities in your Member State in tackling THB? How is the support organised? How is it assessed and evaluated? Where the support is lacking and needed the most in the context of migration (specific to prevention, asylum procedures and criminal proceedings)? (NREM/ATC/LEA/CSO/scholars)
8. Which forms of EU support proved the most effective in addressing the needs of trafficked women and girls, men and boys in the context of migration in your Member State and why? What could be improved to better ensure gender dimension of the targeted support? (NREM/ATC/LEA/CSO/scholars)

Part D. Instructions for country rapporteurs

The language and terminology used in the country report must be in line with Directive 2011/36/EU (further: EU Anti-trafficking Directive) and other relevant EU law.

The country report should be based on (1) analysis of documents which are key for the areas of inquiry and (2) a small number of interviews (up to 4) with carefully selected stakeholders agreed upon individually with Ecorys, based on Ecorys' and your assessment of information needs. The sources you use for desk research have to be of the highest quality, i.e. emphasis is placed on official documents produced by national governments, EU institutions and agencies, scholars, international organisations (e.g. Council of Europe's GRETA) or reputable non-governmental institutions.

It is of utmost importance that all claims that you make in country reports are well-substantiated with reliable evidence. If possible, look for multiple sources for your answers in

order to make it more robust. If you do not consider a source for a piece of information reliable, please note this in the text. Please bear in mind that the final paper produced for the European Parliament based on country reports will have to withstand thorough scrutiny from members of the LIBE and FEMM committees.

Please always add references, including to interviews (citing them with the interview code composed of a country code and number, e.g. PL01, PL02, EL01, BG01), for all information and opinions. Towards this end, use footnotes (not endnotes or in-text citations) in accordance with guidelines provided in this Annex below.

The content of the Country report should reflect desk research, the views expressed by interviewees during fieldwork and your conclusions based on both sources. **Please make sure that we are always able to distinguish between desk research-based results, respondents' views and your own conclusions.**

Where descriptions are requested in the country report, **you should be to brief and within the provided word limits. We are not looking for long reports, but rather for very concrete pieces of information.** Please make sure that your answer is sufficient for us – outsiders to your national context – to understand the answer. Try not to format your answers as bullet point phrases only, but rather use full sentences, so that we are able to understand what exactly is meant. Trust us, this comes from experience. While answering questions, please assume that we may not be familiar with the specific legal context in your country and try to be as clear as possible, including the context that may be necessary for an outsider to understand the mechanisms.

The Country report will form basis for the research paper and comparability of country data is crucial. So, it is important that you follow the template and questions closely. This means e.g. that if a yes/no question is posed, you should directly tell us whether the answer is a 'yes' or a 'no' and only then proceed to providing more detail. If the answer is not so simple, you should state that as well. If there is nothing interesting to answer to our question, but you think we should consider something else instead, please make it clear that there is nothing interesting to report on our questions, but we should know X, Y and Z. By way of example, if we ask about training for law enforcement and in your Member States there was none, but you know of interesting training for labour inspectors, you can write: 'No training focused specifically on gender or migration dimensions of THB for law enforcement officers has been offered within the last 5 years. However, in 2018, the labour service inspectors were trained on identification of trafficking in human beings in the construction sector. [...]' etc.

As noted above, all information provided in your Country report should be well-substantiated with reliable evidence. In the absence of clear instruction on references in the English Style Guide, please use the following, simplified referencing style:

a. Publication of institutions:

Institution name (year), Title, Reference number, available at: [link](#) (accessed: 03.06.2019).

E.g. European Commission (2018), Staff Working Document accompanying Second report on the progress made in the fight against trafficking in human beings, SWD(2018)437 final, available at: [link](#) (accessed: 26.04.2019).

b. Books or reports when the author is known:

Author(s) (year), *Title*, Publisher/Publishing institution, available at: [link](#) (accessed: 03.06.2019).

E.g. Bychawka-Siniarska D. (2018), *Protecting the right to freedom of expression under the European Convention on Human Rights*, Council of Europe, available at: [link](#) (accessed: 18.06.2019).

c. Article (including online) when the author is known:

Author(s) (year), „Article title,' *Publication title*, Vol. XX/XX, available at: [link](#) (accessed: 3.06.2019).

E.g. Głowacka D., Siemaszko K., Smętek J., Warso Z. (2018), 'Protecting journalistic sources against contemporary means of surveillance,' *Northern Lights*, Vol. 16/1, available at: [link](#) (accessed: 18.06.2019).

d. Article online without an author:

Publisher (year), „Article title,' publication date, available at: [link](#) (accessed: 3.06.2019).

E.g. BBC (2018), 'Greenland's 'unusual' melting sea ice captured in stunning image,' 18 June 2019, available at: www.bbc.com/news/world-europe-48674797 (accessed: 18.06.2019).

Once the interview is completed, please code the interview as follows: XXNN, whereby XX = the country you are responsible for and NN = the number of the interview. For example, the third interview in Germany should be coded DE03, while the 11th interview in Bulgaria should be coded BG11. Please provide a full list of the interview codes at the end of the country report (Annex 2). We will not quote any names or affiliations directly in our research paper. We will refer to interview results in bulk, e.g. 'the interviews in Member States showed that'.

Annex 3 – Overview EU level interview questions (EU agencies)

In the below table you can find an overview of the relevant interview questions based on the overview of scope, questions and planning.

	Desk research	DG HOME	Europol	Frontex	EASO	EIGE	CEPOL	Eurojust	Member States
Task 1									
Question 1.1. Registered victims and the profile: What is the present situation regarding the number and profile of victims of THB?									
How has the number of registered victims over the last 5 years for the different types of exploitation? What is the presumed number of victims? (desk research)									
What are the changes in the profile of the victims depending on the type of exploitation? (desk research)?									
Question 1.1. Registered victims and the profile: What is the present situation regarding the number and profile of victims of THB?									
How has the number of registered victims over the last 5 years for the different types of exploitation? What is the presumed number of victims? (desk research)									
What are the changes in the profile of the victims depending on the type of exploitation? (desk research)?									
Question 1.2 Forms of exploitation: How have the forms of exploitation changed in the past 5 years?									
Which are the most common forms of exploitation of the victims of trafficking in your Member States? Have any new forms of exploitation emerged over the last 5 years (desk research + Member States interviews + Europol)?									
Question 1.3 Modus operandi of traffickers: How have the modes of operandi of traffickers changed in the past 5 years?									
Are there any changes to the recruitment strategies of trafficking (separately for sexual exploitation for labour exploitation)? (desk research)									
Have these recruitment strategies changed over the last 5 years?									
What are the most common ways for exerting control over the victims (separately for sexual exploitation; for labour exploitation)? (desk research)									

	Desk research	DG HOME	Europol	Frontex	EASO	EIGE	CEPOL	Eurojust	Member States
How have the ways for exerting control over the victims changed over the past five years? (Member States interviews + Europol + DG Home)									
What are the main trafficking routes? Are there any new trafficking routes developing?									
Have migration flows influenced trafficking routes? Are there links between migrant smuggling and trafficking routes? (Member States interviews + Europol + Frontex)									
Task 2									
Question 2.1. What progress has been made in the reduction of demand, in particular in terms of criminalisation of purchase of sex from victims of THB? Have there been any investigations and convictions? What obstacles and challenges have been encountered?									
Question 2.2 What progress has been made in enhancing the cooperation of the private sector in the reduction of demand for services provided by victims of trafficking for labour exploitation? What were the obstacles and challenges encountered by each Member State? What best practices have been established?									
Question 2.3 Are officials who come into contact with victims of trafficking adequately trained to provide assistance and support and to protect the rights of victims, including to avoid secondary victimisation and provide referral to general and specialised victim services? What specific measures have been implemented in regards to women and migrants victims of trafficking?									
Question 2.4 Have adequate protection, assistance and support been provided to (i) women and girls with physical and developmental disabilities and (ii) children, including migrant children and unaccompanied minors, who are victims of THB? Have sufficient resources (financial and human) been allocated									
Question 2.5 What measures have been taken to address the increasing use of online platforms and social media by both traffickers and victims?									
Task 3									

	Desk research	DG HOME	Europol	Frontex	EASO	EIGE	CEPOL	Eurojust	Member States
Question 3.1 Current state of play: How have migration flows linked to asylum seekers impacted the trafficking in human beings' situation in the EU?									
What is the number and profile (in terms of age, ethnicity, and gender) of individuals seeking international protection, who have been identified to be victims of trafficking? If data is not available, why not? (desk research + Member States interviews)									
Are there differences (in terms of countries of origin of the victims and destination countries in the EU), when comparing cases of victims in the asylum system and other cases (in respect to victims who are third country nationals)?									
What are the main types of exploitation to which asylum seekers become a victim to? (desk research + EASO + Frontex)									
How is the modus operandi of trafficking of victims in the asylum system different from other modes of trafficking?									
What are the main factors that increase the risk of becoming victim of trafficking while using the migration flow? (desk research + EASO + Frontex)									
When is the exploitation taking place – country of origin, on the route, in the country of destination? (desk research + EASO + Frontex)									
Question 3.2 Effectiveness of mechanisms for identification of victims of trafficking in asylum procedures: How effective are the mechanisms for identification of victims of trafficking in asylum procedures?									
What mechanisms have been put in place detect and identify victims of trafficking at the various stages of the procedure for international protection, including admission, processing of applications? (desk research + Member States interviews + Frontex + EASO)									
To what extent are these mechanisms effective? Is there a significant gap between the identified victims seeking international protection and the presumed number? (interviews Member States interviews + Frontex + EASO)									

	Desk research	DG HOME	Europol	Frontex	EASO	EIGE	CEPOL	Eurojust	Member States
Do Member States proactively screen applicants for international protection for indication of trafficking? (interviews)									
Are there any gender-specific protocols for identification of victims of trafficking in procedures for international protection? (desk research + Member States interviews + Frontex + EASO)									
To what extent are these mechanisms effective? (Member States interviews + Frontex + EASO)									
Are there any different protocols and/or practices for detection/identification that apply to children in international protection procedures? (desk research + Member States interviews + Frontex + EASO)									
To what extent are these mechanisms effective? Member States interviews + Frontex + EASO)									
What are the main obstacles in the identification of THB victims in asylum procedures?									
Are there any best practices for identification of victims of trafficking in asylum procedures?									
Task 4									
Question 4.1 What are the patterns and trends in relation to identification of victims, as well as investigation, prosecution and conviction of offenders of trafficking in human beings?									
Q1.1. Is relevant data available at EU and Member States level with an appropriate level of disaggregation accounting for gender and migration contexts, and type of trafficking?									
Q1.2. Is the data comparable across Member States?									
Question 4.2 What are the obstacles (which obstacles persist) in the implementation of Directive 2011/36/EU with respect to the efficiency of criminal systems and prosecution of THB offenders in the EU? How are the identified obstacles tackled at national and EU-level?									
Question 4.2.A. External – related to the nature of THB:									

	Desk research	DG HOME	Europol	Frontex	EASO	EIGE	CEPOL	Eurojust	Member States
Q2.1. Do new patterns and trends in relation to THB in Member States (based on Task 1) influence the efficiency of criminal systems and prosecution of offenders? If so, how?									
Q2.2. Considering the gender and migration contexts, what strategies have been put in place in Member States and at EU level to increase victim identification? (How is the gender dimension of trafficking taken into account in victim identification? How is identification of victims in the context of migration ensured and is this subject of cooperation at EU level?)									
Q2.3. Considering the gender and migration contexts, what measures have been put in place to ensure victim cooperation in the criminal justice system? (How are the specific needs of women and girls, men and boys taken into account and addressed? How are the specific needs of victims who are migrants, including irregular migrants and unaccompanied children, taken into account and addressed? What measures have been put in place to reduce victims' leaving the country before they are able to provide testimony?) (Article 11-16 of Directive 2011/36/EU)									
Q2.4. How has non-criminalisation of victims been regulated and what is the practice? What efforts have been made at EU and Member States level to prevent criminalisation? (Article 8 of Directive 2011/36/EU)									
Q2.5. What measures have been put in place to facilitate cooperation between stakeholders at national level and on cross-border cases to increase efficiency and prosecution? (Article 11(4) of Directive 2011/36/EU)									
Question 4.2.B Internal – related to specific situation/position/capacity of states:									
Q2.6. What level of priority is assigned to THB in Member States?									
Q2.7. Is Member States' criminal systems' response to THB supported by adequate budgets?									
Q2.8. What conditions for cooperation with civil society are created? Is there willingness on the part of government to engage?									
Q2.9. What training is available to stakeholders, in particular law enforcement bodies, to increase efficiency of criminal systems and prosecution of offenders? What training is available to present the gender and migration dimensions of THB? (Article 9(3) of Directive 2011/36/EU)									
Question 4.3. What are the gaps and shortcomings in identified strategies of the criminal systems in the EU to increase their efficiency? What could be done to fill the gaps and address those shortcomings?									

	Desk research	DG HOME	Europol	Frontex	EASO	EIGE	CEPOL	Eurojust	Member States
Question 4.4. What good practices can be gathered from Member States in relation to the efficiency of criminal systems and prosecution of offenders in the context of gender and migration? It may be of particular value to focus, in answering this questions, on those Member States where convictions are the most frequent.									
Task 5									
Question 5.1. The effectiveness of the cooperation between Member States									
(1) TRMs: are Member States participating in TRMs? Are the TRMs actively used, and why? Are the TRMs mechanisms gender sensitive/child sensitive? What could be improved in their functioning in the context of migration?									
(2) Cooperation agreements: What other forms of collaboration can be identified (formal and informal, bilateral and multilateral)? Which proved most effective and why? (3) What are the obstacles for effective cooperation between Member States?									
(3) Joint investigations: Do the Member States partake in joint investigative teams? How is this cooperation evolving? Are there procedures and SOPs in place or is it organized at hoc?									
(4) Dublin regulation: how is implementation of the Dublin regulation managed? What are the challenges and modes to overcome these? How are the rights and interests of THB victims ensured?									
(5) What are the international platforms for knowledge sharing and capacity building most used? How are the issues of gender addressed within these mechanisms?									
Question 5.2. The effectiveness of the EU support to Member States									
(1) Which EU agencies play the most significant role in supporting Member States? How is the support organized? How is it assessed and evaluated? Where the support is lacking and needed the most in the context of migration (specific to prevention, asylum procedures and criminal proceedings)?									
(2) Which forms of the EU support proved the most effective in addressing the needs of women and girls, men and boys in the context of migration and why? What could be improved to better ensure gender dimension of the targeted support									

Annex 4A – Private sector cooperation

Best practices of cooperation of the private sector in prevention of trafficking of human beings for labour exploitation

Initiatives to prevent trafficking for labour exploitation involving the business community are increasingly reported by State Parties. Such public-private partnerships are fully in line with the Convention. (p. 57)

In Portugal, the Immigration and Border Service (SEF) organised information meetings and conferences targeting businesses operating in sectors with high risk of trafficking in human beings for the purpose of labour exploitation, seeking to discourage the use of intermediaries that are not certified in Portugal. For example, the conference 'New Migration Flows and Trafficking in Human Beings', which was held in Beja, aimed to clarify the legal forms of recruitment of foreign nationals, identify mechanisms to better regulate the phenomenon and warn of the risks of irregular migration and human trafficking. (p. 55) In Portugal, as a reaction to cases of football players, some of them children, having been identified as victims of trafficking for the purpose of labour exploitation, in 2015 the Immigration and Border Service (SEF) signed a protocol with the Portuguese Football Federation, the Portuguese Professional Football League and the Union of Professional Football Players. The protocol aims to promote collaboration, transparency, and information-sharing between the parties with a view to preventing such cases in the future. (p. 58)

In Denmark, the CMM has issued guidelines for companies and employers on managing the risk of hidden forced labour in 2014, which are available as an interactive web-based toolkit, and include checklists for measures which companies can take to reduce the risk of forced labour in their supply chains and which are also used for training purposes. The manual developed by the CMM was translated into Slovenian in 2016. (p. 56) In Denmark, the CMM has made efforts to engage with the private and public sectors to combat trafficking and forced labour. Since 2014 the CMM has been part of the Danish Inter-Ministerial Working Group on Corporate Social Responsibility (CSR). The CMM has prepared sector-specific corporate social responsibility guidelines on combating human trafficking. The guidelines were distributed at a conference focusing on trafficking for the purpose of forced labour held in November 2014. As part of an awareness-raising campaign, a side event on trafficking for the purpose of labour exploitation was held in connection with a larger event on CSR Awards in 2014. The CMM hosted a similar side event on THB at the 2015 CSR Awards event. (p. 57)

In Slovenia, in 2016 a project entitled 'Resnica' ('Truth') aimed at raising awareness of the services and products that are the results of trafficking for labour exploitation, which was implemented in co-operation with the web portal 24ur.com, involving the publication of 27 articles, streaming of five programmes on the TV channel Kanal A. and the creation of a special website with stories on products that may be the result of labour exploitation and recommendations for consumers on how to contribute to the reduction of the problem. Additionally, messages were sent to the companies that deal with such products to create awareness about the issue of labour exploitation. (p. 57)

In France, a law on due diligence by parent companies and principal companies operating with subcontractors was adopted on 21 February 2017. It creates an obligation for certain companies¹⁰⁵ to introduce a vigilance plan 'geared to identifying and obviating risks of violations of human rights and fundamental freedoms, serious physical harm or environmental damage or health risks resulting from its activities and those of companies under its direct or indirect control, as well as the activities of subcontractors or suppliers over which they exert decisive influence'. The company's civil liability will be incurred in the event of failure to fulfil the newly created obligations. In Ireland, the 2016 Cross Border Conference focused on engagement with the private sector to raise

awareness of the indications of serious labour exploitation in supply chains and advice on prevention to businesses. (pp. 56-57)

In Bulgaria, under the project entitled 'NGOs&Co: Co-operation between NGOs and the business in combating trafficking in human beings', the Animus Association Foundation organised several business meetings, made direct contacts with some 30 business representatives, including Manpower Bulgaria and JobTiger Bulgaria, and participated in two job fairs. (p. 57)

Source: Council of Europe's GRETA 7th report (pp. 55-58)

Annex 4B – EU level training courses on protection of victims of trafficking

Date	Course / Organised by	Target Audience
24 January 2020	<p>Webinar 64/2020 Protecting victims of labour exploitation</p> <p>The aim of the webinar is to enhance the effectiveness of the combat against the criminal exploitation of the work of EU and non-EU migrants by law enforcement officers.</p> <p>At the end of the webinar the participant will be able to:</p> <p>Discuss how these crimes can be effectively addressed by law enforcement;</p> <p>Take appropriate actions to ensure that these crimes are detected and reported;</p> <p>Support victims to gain access to justice in effective ways.</p>	Trafficking in Human Beings (THB) investigators and Labour Inspectors.
14 November 2019	Webinar 20/2019 Best practices for the prevention of Trafficking in Human Beings (THB) for the purpose of labour and sexual exploitation.	Law Enforcement officers investigating THB cases and involved in the identification/prevention of THB crimes.
04 – 08 November 2019	<p>8/2019 Protection of THB Victims</p> <p>To enhance the use of victim protection structures in THB cases.</p> <p>To reinforce the prevention and the early detection of THB cases through the better understanding of crime patterns.</p>	Law enforcement officers (police, customs, prosecutors, etc.) handling THB cases; officials responsible for the operation of victim protection structures.
21 – 24 May 2019	<p>6/2019 Child Trafficking</p> <p>The aim of the course is to enhance the capacity of law enforcement officers in identifying child victims and in tackling child trafficking.</p>	Investigators and prosecutors as well as other law enforcement staff specialised in THB, in child trafficking, and/or responsible for interviewing children.
20-24 May 2019	<p>5/2019 Trafficking in Human Beings - multidisciplinary approach (webinar)</p> <p>The aim of the course is to develop multidisciplinary approach in the fight against Trafficking in Human Beings (THB). To improve the use of preventive, proactive, alternative/complementary approaches and the related cooperation of law enforcement, social services, NGOs focused on victim support. To enhance the understanding and the competences of law enforcement officials concerning international cooperation instruments.</p>	Law enforcement officials and prosecutors combating THB.
19 – 22 November 2018	<p>9/2018 Child trafficking</p> <p>To enhance the capacity of law enforcement officers in identifying child victims and in tackling child trafficking.</p>	Investigators and prosecutors specialised in THB, as well as other law enforcement staff that are involved in the investigation of THB, and in child trafficking,

Date	Course / Organised by	Target Audience
		and/or specialised in interviewing children.
15 - 18 May 2018	2/2018 Migrant smuggling and THB The aim of this residential activity is to distinguish and identify trafficking in human beings in organised crime facilitating illegal migration.	Law enforcement officials tackling organised crime facilitating illegal migration and trafficking in human beings.
25 January 2018	Webinar Ad Hoc/2018 EU Anti Trafficking Coordinator Past/current activity to tackle measures to combat THB more efficiently . This webinar aims to target priorities to step up the EU's efforts to prevent THB.	Law enforcement officers involved in the fight against THB. THB contact points from EU Agencies. Prosecutors and judicial authorities.
8 November 2017	Webinar 04/2017 Child Trafficking The aim of this webinar is to identify new trends, good practices and input for new actions in the area of child trafficking with the aim to disrupt OCGs that are actively trafficking children/minors (under 18) into and across the EU for different forms of THB exploitation.	EU law enforcement officers.
FRONTEX		
Jan-Jun 2019	Anti-Trafficking in Human Beings In line with the latest international and EU standards, this training emphasises that the fundamental rights of the trafficked person are at the centre of all efforts addressing trafficking. It is structured around the core functions of the border guards.	First- and Second-line Border Police officers Frontex supports the implementation of anti-trafficking courses in the Member States and non-EU countries by training of national trainers.

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Directive 2011/36/EU (Anti-Trafficking Directive) is the benchmark legislation on the fight against human trafficking at European level.

The aim of this European implementation assessment is to gather evidence on the progress and challenges that occur in the implementation of the directive in the Member States, with a double focus: the migratory context and gender issues.

Almost 10 years after its adoption, the Anti-Trafficking Directive remains a valuable tool in combating trafficking in human beings in the European Union (EU). Nevertheless, the evaluation points out the need to continue efforts to ensure the application of its provisions in all the directive's main aspects. The persisting grey areas and obstacles are significant enough to put the full achievement of the directive's objectives at risk.

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