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To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of  
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**COMMISSION STAFF WORKING DOCUMENT**  
*Accompanying the document*

**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}

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## 1. INTRODUCTION

This staff working document complements the second Commission report on the progress made in the fight against trafficking in human beings as required under article 20 of Directive 2011/36/EU<sup>1</sup> on preventing and combating trafficking in human beings and protecting its victims (hereafter ‘the Report’). It aims to provide a **factual overview of the progress made in addressing trafficking in human beings in the EU, including statistical data**, as reported by Member States, EU Agencies, civil society and international or regional organisations.

The document additionally takes into consideration actions implemented by the European Commission and other relevant stakeholders in the context of the **EU Strategy towards the eradication of trafficking in human beings 2012-2016**<sup>2</sup> (hereafter "the EU Strategy") and 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**<sup>3</sup> (hereafter “the 2017 Communication”). The targeted priority actions stipulated in this Communication include (i) disrupting the traffickers’ business model and untangling the trafficking chain, (ii) providing better access to and realising the rights for victims and (iii) intensifying a coordinated and consolidated response, both within and outside the EU; and two cross cutting priorities (iv) actions for a sound knowledge base and (v) actions to support anti-trafficking priorities in EU and non-EU countries.

The staff working document elaborates on the topics presented in the Report in selected areas of the ‘four Ps’, prosecution, protection, prevention, and partnership/cooperation, which are not only the main pillars of the **Directive 2011/36/EU**<sup>4</sup> (hereafter “the Anti-Trafficking Directive”) but also reflect the targeted priorities set forth in the 2017 Communication.

The first section of this staff working document describes the methodology and information sources used for drafting both the Report and this document. The following sections mirror the structure of the Report by providing detailed elements on: emerging patterns based on data and trends; specific anti-trafficking actions; funding; implementation of the EU Strategy and the 2017 Communication, brief analysis of statistical data provided by the Member States, and an update on the implementation of the Directive 2004/81/EC<sup>5</sup> on residence permits for victims of trafficking.

### 1.1. Methodology and information sources

The Report and this accompanying staff working document are based on a wide range of information and sources, including:

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<sup>1</sup> COM(2018) 777

<sup>2</sup> <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:52012DC0286>.

<sup>3</sup> COM (2017) 728.

<sup>4</sup> 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, OJ L 101, 15.4.2011.

<sup>5</sup> Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities, OJ L 261, 6.8.2004.

- information gathered by the national rapporteurs or equivalent mechanisms and transmitted to the EU Anti-Trafficking Coordinator<sup>6</sup> by the Member States pursuant to Article 19 and 20 of the Anti-Trafficking Directive<sup>7</sup>;
- actions taken by the Commission and other stakeholders under the EU Strategy and the 2017 Communication;
- contributions submitted by civil society organisations participating in the EU Civil Society Platform and the e-Platform against Trafficking in Human Beings<sup>8</sup>; and
- information from relevant EU agencies, and international and regional organisations.

The report and its accompanying staff working document, presents emerging patterns based on data and trends, actions taken under the EU Strategy and the progress in implementing the 2017 Communication, in line with the commitment undertaken therein. The report also contains statistical data provided by the Member States and presents an update on the implementation of Directive 2004/81/EC<sup>9</sup> on residence permits for victims of trafficking. The narrative information submitted by Member States mainly covers the period 2014-2016, while the report and staff working document draw on information from sources such as Member States, civil society, international organisations and Commission publications.

The methodology and sources used to gather this information are detailed below.

## **1.2. Member States and National Rapporteurs or Equivalent Mechanisms (NREMs)**

Article 19 of the the Anti-Trafficking Directive states that the tasks of the NREMs should at least include ‘the carrying out of assessments of trends in trafficking in human beings, the measuring of results of anti-trafficking actions, including gathering of statistics in close cooperation with relevant civil society organisations active in this field, and reporting”. Article 20 of the Anti-Trafficking Directive further stipulates that ‘Member States shall transmit to the ATC the information referred to in Article 19, on the basis of which the ATC shall contribute to reporting carried out by the Commission every two years on the progress made in the fight against trafficking in human beings’.

The methodological aspects followed are in line with the approach taken for the first Commission progress report adopted in 2016<sup>10</sup> and it builds on that previous experience. Thus, a template was discussed and agreed with the EU Network of National Rapporteurs or Equivalent Mechanisms on trafficking in human beings to facilitate reporting. The template provided a general direction for the reporting and aimed at ensuring a coordinated approach for a coherent report at the EU level. The information gathered by the NREMs and

<sup>6</sup> [https://ec.europa.eu/anti-trafficking/eu-anti-trafficking-coordinator\\_en](https://ec.europa.eu/anti-trafficking/eu-anti-trafficking-coordinator_en)

<sup>7</sup> Under Art. 19 of Directive 2011/36/EU, the tasks of the national rapporteurs or equivalent mechanisms should at least include ‘carrying out assessments of trends in trafficking in human beings, measuring of results of anti-trafficking actions, including gathering of statistics in close cooperation with relevant civil society organisations active in this field, and reporting’. Art. 20 of Directive 2011/36/EU further stipulates that ‘Member States shall transmit to the ATC the information referred to in Article 19, on the basis of which the ATC shall contribute to reporting carried out by the Commission every 2 years on the progress made in the fight against trafficking in human beings’.

<sup>8</sup> [https://ec.europa.eu/anti-trafficking/media-outreach-els/eu-civil-society-e-platform\\_en](https://ec.europa.eu/anti-trafficking/media-outreach-els/eu-civil-society-e-platform_en)

<sup>9</sup> Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities, OJ L 261, 6.8.2004.

<sup>10</sup> 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.

transmitted by the Member States is extensive and includes reporting on national developments, new patterns and trends in the field of anti-trafficking, statistics and funding. National examples are presented throughout this paper in order to enrich available information at EU level.

### **1.3. EU Civil Society Platform and e-Platform against trafficking in human beings**

The report and staff working document take into consideration contributions submitted by civil society organisations participating in the EU Civil Society Platform against trafficking in human beings (hereafter ‘the Platform’) and the complementary e-Platform. As per the process followed for the publication of the first progress report (2016), these contributions relate to the input received from the EU Network of NREMs Network or other relevant information. Reports transmitted by 26 Member States<sup>11</sup> have been made available for comments via the EU Civil Society e-Platform.

This process continues to represent a concrete example of implementation of the requirement of close cooperation with civil society organisations set forth by the Anti-trafficking Directive, which recognises their key role in the joint efforts to address trafficking in human beings, as equal partners.

#### **Civil Society Contribution to the Report**

For this report, 14 contributions (single and joint) were submitted for consideration through the described process, including 88 civil society organisations participating in the Platform, in the e-Platform or other. Contributing NGOs are based in 18 Member States (AT, BE, BG, CZ, DE, DK, EE, ES, FI, FR, IT, IE, LV, NL, PL, RO, SE, UK), including European and international offices, with NGOs from non-EU countries (8) also participating in joint submissions.

### **1.4. EU Agencies, and international and regional organisations**

The Report and this staff working document take also into account information provided by the following EU Justice and Home Affairs Agencies in the context of the work delivered under the Joint Statement signed by the Heads of seven Justice and Home Affairs Agencies in 2011: European Asylum Support Office (EASO), European Police Office (Europol), EU Judicial Cooperation Unit (Eurojust), European Institute for Gender Equality (EIGE), European Border and Coast Guard Agency (Frontex), EU Agency for Fundamental Rights (FRA), EU Agency for Law Enforcement Training (CEPOL). A relaunch of this Joint Statement was marked in 2018, which brought on board further relevant EU Agencies joining the effort, as a key action under the 2017 Communication<sup>12</sup>. More information on this can be found in Section 7.3 of this staff working document.

## **2. EMERGING TRENDS AND PATTERNS IN ADDRESSING TRAFFICKING IN HUMAN BEINGS**

<sup>11</sup> Two Member States objected on sharing their reports through the described process.

<sup>12</sup> [https://ec.europa.eu/anti-trafficking/eu-policy/heads-ten-eu-agencies-commit-working-together-against-trafficking-human-beings\\_en](https://ec.europa.eu/anti-trafficking/eu-policy/heads-ten-eu-agencies-commit-working-together-against-trafficking-human-beings_en).

## **2.1. Statistical data for 2015-2016**

The fourth exercise in the collection of statistics on trafficking in human beings, mainly focusing on the period 2015-2016, presented in this second progress report<sup>13</sup>, provides more data than the previous ones. All Member States have provided statistical data, though at varying levels of detail. Eurostat published two working papers on EU-level statistics in 2013 and 2014, updated in 2015, followed by a limited data collection exercise by the Commission for 2013-2014, reported in the first progress report<sup>14</sup>.

The data for 2015-2016 show similar patterns among registered victims and traffickers in contact with the police and criminal justice system to those found in previous reporting periods. These data concern those in contact with authorities and other organisations. There are reasons to believe that many victims and traffickers remain undetected and are therefore not included in these figures reported here. There are substantial differences in the way that Member States collect and record data, so there is a need for caution in any comparisons between them and over time.

For **2015-2016**:

- There were **20 532 registered victims** of trafficking in the EU.
- **5979 prosecutions** and **2927 convictions** for trafficking in human beings were reported.
- **7503** people had formal contact with the police or the criminal justice system, that is were suspected, arrested or cautioned for a criminal offence concerning trafficking in human beings.
- **Over half (56%) of trafficking in human beings was for the purpose of sexual exploitation** and this remains the most widespread form. Around **one quarter (26%) was trafficking for labour exploitation**, while **other forms (such as forced begging, organ removal) (18%) made up the remainder**. The majority (61%) of the registered victims of trafficking for labour exploitation are found in the UK, so data from the UK significantly changes the proportion of trafficking that is for labour at the EU level. If the UK data are not included, then the proportions change to: sexual 65%, labour 15% and other 20%.
- **Females** (women and girls) **were over two-thirds (68%)** of the registered victims (if UK data were not included this rises to 77%).
- **Children** were almost **one quarter (23%)** of the registered victims.
- EU citizens were **(44%)** of registered victims.
- The top five EU countries of citizenship of registered victims were Romania, Hungary, the Netherlands, Poland and Bulgaria. These are the same countries as in 2010-2012 and in the first Commission progress report.
- The top five non-EU countries of citizenship of registered victims were Nigeria, Albania, Vietnam, China and Eritrea.

The Commission has worked with Member States, Eurostat and statistical authorities to improve the data available. There is more detail, as well as new information, on the different ways that state services engage, support victims and act to reduce the impunity of traffickers. This work included requests for information in relation to victims, such as, the use of international protection status and in relation to reducing impunity, such as, the criminalisation of the use of services of victims of trafficking. However, there remain gaps in

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<sup>13</sup> More details can be found in the linked data analysis study containing updated statistics and describing the methodology followed.

<sup>14</sup> COM (2016)267.



the provision of data by Member States, which place limits on the reliability and comparability of the information.

**The Commission will continue supporting the Member States in their efforts to improve availability, recording and registration, reliability and comparability of data on trafficking in human beings in order to monitor the phenomenon and ensure better policy-making.**

## **2.2 Patterns and Emerging Trends**

Article 19 of the Anti-Trafficking Directive requires that Member States take the necessary measures to establish national rapporteurs or equivalent mechanisms. The tasks of such mechanisms shall include the carrying out of assessments of trends in trafficking in human beings, the measuring of results of anti-trafficking actions, including the gathering of statistics in close cooperation with relevant civil society organisations active in this field, and reporting. Information following below contains such trends and patterns as reported by the Member States and the civil society in narrative reports.

Trafficking in human beings is a complex social phenomenon that takes many forms. It develops over time, often according to the demand of users and the inventiveness of traffickers. It should be recalled that the list of different forms of exploitation in the Anti-trafficking Directive is non-exhaustive so that new exploitative forms can be included under the definition of trafficking in human beings.

### **2.2.1. Trafficking for the purpose of sexual exploitation**

Trafficking in human beings for the purpose of sexual exploitation **continues to be the most reported form**. In 2015-2016, there were 9 759 registered victims of sexual exploitation, making up over half (56%) of the registered victims who had a recorded form of exploitation, and predominantly women and girls (95% of registered victims of sexual exploitation). A sharp increase has been noted in the number of women and girls trafficked through the Central Mediterranean route for sexual exploitation in the EU<sup>15</sup>. Victims are exploited in the sex and entertainment industry, facilitated by the rapid technological development and the internet. Emerging patterns reported include pornography, the use of live web cameras and live distant child sexual abuse.

Europol states that ‘Trafficking in human beings for the purpose of sexual and labour exploitation remains a key threat in the EU. Cases of trafficking in human beings for sexual exploitation are the most predominantly reported.’<sup>16</sup>

#### **Nigerian Women and Girls potential Victims of Trafficking for Sexual Exploitation**

In 2017, the International Organisation for Migration (IOM) reported a 600% increase since 2014 in the number of women and girls potential victims arriving by boat from Libya to Italy, predominantly from Nigeria. IOM<sup>17</sup> highlights that sexual exploitation increasingly involves younger girls – often minors – who are already subject to violence and abuse on their way to Europe. IOM estimates that 80 per cent of girls arriving from Nigeria – whose numbers have

<sup>15</sup> 2018 Frontex Risk Analysis

[https://frontex.europa.eu/assets/Publications/Risk\\_Analysis/Risk\\_Analysis/Risk\\_Analysis\\_for\\_2018.pdf](https://frontex.europa.eu/assets/Publications/Risk_Analysis/Risk_Analysis/Risk_Analysis_for_2018.pdf)

<sup>16</sup> Europol, Two years of EMSC, Activity report, Jan 2017- Jan 2018, available at: <https://www.europol.europa.eu/publications-documents/two-years-of-emsc>.

<sup>17</sup> <https://www.iom.int/news/un-migration-agency-issues-report-arrivals-sexually-exploited-migrants-chiefly-nigeria>.

soared from 1 454 in 2014 to 11 009 in 2016 – are potential victims of trafficking for sexual exploitation.

According to Member States, sectors where trafficking for sexual exploitation has been reported include **street prostitution**, prostitution in **private flats** (with reference also to short-term rentals), **escort agencies**, and the **entertainment industry**. The rapid development of the Internet and new means of communication (social media et al.) influences the modus operandi associated with trafficking for sexual exploitation and renders the diffusion of advertisement of services by victims more widespread (small ads on websites and advertisements). The use of new information and communication technologies is linked to recruitment of victims, including through intra-community sites. Member States reports further mention pornography, the use of live web cameras and live distant child sexual abuse as emerging patterns.

The gender specific nature of this criminal phenomenon is clear in that its victims are predominantly women and girls. The United Nations Inter-Agency Coordination Group against Trafficking in Persons (ICAT) underlines that ‘the Secretary General Report on trafficking in women and girls acknowledges that the harms of trafficking are known to be more severe for women and girls than for men and boys given the exposure of the former to specific forms of exploitation such as sexual exploitation and violence, domestic servitude and forced marriage.<sup>18</sup>’

#### **2017 Communication Deliverables**

The European Institute for Gender Equality in cooperation with the Office of the EU Anti-Trafficking Coordinator in the European Commission delivered the report on gender-specific measures in anti-trafficking actions, which undertakes a comparative analysis of the Victims’ Rights Directive and the Anti-Trafficking Directive, from the perspective of women and girls trafficked for sexual exploitation purposes. The report aims to provide guidance to practitioners in a practical and tangible manner.

At the same time, some Member States report also on **male victims of trafficking** for sexual exploitation (e.g. AT, IT, NL). For example, in Austria, MEN VIA assisted 4 male victims of trafficking for the purpose of sexual exploitation during the reporting period. In the Netherlands, research was conducted on boys becoming victims of sexual exploitation. Europol reports<sup>19</sup> that boys have been reported to be exploited in even more clandestine locations than female child victims. In one case, suspects would transport the male victims to specific bars where sexual encounters with clients would be organised. In other cases, they would be forced to meet potential customers in parks and be sexually assaulted there.

The gender specificity of this form of exploitation is also relevant to the role of female victims, who, Member States report, are increasingly involved in this criminal activity in specific phases (e.g. RO).

Member States further report that a growing number of victims of trafficking for sexual exploitation has **learning and/or developmental disabilities** and are recruited from care or youth institutions (e.g. NL).

<sup>18</sup> <http://icat.network/sites/default/files/publications/documents/ICAT-IB-04-V.1.pdf>

<sup>19</sup> Europol, Situation Report on Criminal networks involved in the Trafficking and Exploitation of Underage Victims in the European Union, 2018.

Europol highlights<sup>20</sup> that **‘the sexual exploitation of EU nationals no longer relies predominantly on the use of violence and coercion towards victims**. Some Organised Crime Groups (OCGs) are increasingly relying on threats of violence towards victims and their families rather than attacking the victim. 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 *modi operandi*’.

Deception and abuse of the position of vulnerability are reported to be used as means of recruiting victims. Often traffickers approach victims, create an emotional dependency to the victim and channel them to sexual exploitation (so-called ‘lover boys’, mentioned by BE, BG, DE, NL, PL, RO). Europol’s finding<sup>21</sup> that **‘there are MS where prostitution is legal, making it much easier for traffickers who wish to use a legal environment in order to exploit their victims’** is still valid, with traffickers tending to drive their victims in countries where prostitution is regulated and lawfully practiced (e.g. reported by RO).

In this respect, according to Europol’s operational intelligence<sup>22</sup> in some EU Member States, where prostitution is legal, suspects were able to exploit children alongside adults victims in legal businesses such as brothels, red light districts, sex clubs, often with the support of the business managers, since prostitution of minors can be very profitable, as ‘clients’ are generally prone to pay more to have sex with a child.

Further, Europol finds that the **traditional flow from Eastern to Western Europe of trafficking for the purpose of sexual exploitation, has been replaced by multiple and diverse flows of victims** all over the EU.<sup>23</sup>

Pertaining particularly to the role of the Internet, identified patterns with respect to contiguous crimes are also important to note. Europol<sup>24</sup> reports that ‘Child Sexual Abuse (CSE) perpetrated online is increasingly profit driven. (...) Child Sexual Exploitation Material is increasingly produced for financial gain and distributed through the Darknet. Coercion and sexual extortion are increasingly being used to victimise children. (...) Children are sexually exploited largely to satisfy the sexual appetites of those with a sexual interest in children. However, there is a growing trend in the production of CSEM for financial gain. A particular activity associated with commercial production of CSEM is that of Live Distant Child Abuse (LDCA). LDCA is a significant threat in this area of criminality. LDCA involves a perpetrator paying to direct the live abuse of children on a pre-arranged specific timeframe through video sharing platforms’. The online advertisement of sexual services is an increasing phenomenon relating to THB for sexual exploitation, with children being advertised as adults<sup>25</sup>.

The Council of the EU identified trafficking for sexual exploitation as part of the key priorities of the **EU Policy Cycle for organised and serious international crime and**

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<sup>20</sup> <https://www.europol.europa.eu/socta/2017/index.html>.

<sup>21</sup> Europol, Situation Report “Trafficking in Human Beings in the EU”, February 2016, available at <https://www.europol.europa.eu/publications-documents/trafficking-in-human-beings-in-eu>.

<sup>22</sup> [Europol, Situation Report on Criminal networks involved in the Trafficking and Exploitation of Underage Victims in the European Union, 2018](#)

<sup>23</sup> Europol, EU SOCTA 2017.

<sup>24</sup> <https://www.europol.europa.eu/activities-services/main-reports/european-union-serious-and-organised-crime-threat-assessment-2017>

<sup>25</sup> [Europol, Situation Report on Criminal networks involved in the Trafficking and Exploitation of Underage Victims in the European Union, 2018](#)

**European Multidisciplinary Platform against Criminal Threats ('EMPACT')** during both periods of 2014-2017 and 2018-2021<sup>26</sup>.

While the majority of Member States' reports mention trafficking for sexual exploitation as the most frequent form, information on the actions taken in the Member States demonstrate a tendency to focus on other forms of exploitation. Civil society organisations have expressed concerns that trafficking for sexual exploitation is not being made a priority, with its implications for gender inequalities. **Civil society organisations also express concerns on victims of trafficking for sexual exploitation not being identified and cases not investigated.**

The Commission is currently monitoring the implementation by Member States of Directive 2011/93 on combatting the sexual abuse and sexual exploitation of children, and is supporting Member States by facilitating the exchange of best practices. If needed, the Commission will make use of its enforcement powers under the Treaties to ensure correct and complete implementation of the Directive.

**The data collected for this report and other sources suggest that, despite the efforts made so far, trafficking for sexual exploitation has not been tackled effectively and there are no indications of this form of exploitation decreasing. It is only by prioritising trafficking for sexual exploitation that this crime can be adequately addressed.**

#### **EU-wide Joint Action Day against trafficking for sexual exploitation and child trafficking**

An impressive number of 28 countries teamed up with Europol<sup>27</sup> in October 2016 to deliver a major blow to organised crime groups involved in trafficking in human beings across the European Union and beyond. During the operational activities of the EU-wide Joint Action Day (JAD) named Ciconia Alba, one part of the intelligence-led police actions and controls focussed explicitly on sexual exploitation and child trafficking. During the span of the action week co-ordinated by Europol and under the lead of Austria, 11 161 locations (red-light district areas, brothels, private flats, massage parlours, airports and reception centres) were controlled, alongside 43 405 persons were checked, and 549 victims/potential victims identified. In addition, police controls checked 5 126 vehicles and 35 848 ID documents. Data gathered during the operations led to the launch of 102 new investigations in order to identify further suspects and victims linked to trafficking cases across the EU. The nationality of the victims of trafficking identified, and the suspects arrested during the JAD Ciconia Alba, confirm the prominence of trafficking network originating from Nigeria, Asia and Eastern-Europe as being the most active in the EU. Fourteen underage victims were reported. Overall fifty-two countries and four international organisations were involved in the JAD Ciconia Alba, and joined Europol in its fight to disrupt the most dangerous criminal networks currently active. During the JAD investigators put an emphasis on cases related to facilitated illegal immigration, trafficking in human beings, drug trafficking (cocaine, heroin and synthetic drugs) and cybercrime (payment card fraud – Global Airport Action Day). Law enforcement officers in the field were supported 24/7 from an operational coordination centre located at Europol's headquarters in The Hague. There, Europol officers, liaison officers and national experts from the participating countries, working with specialists from other

<sup>26</sup> <https://www.europol.europa.eu/crime-areas-and-trends/eu-policy-cycle-empact>.

<sup>27</sup> <https://www.europol.europa.eu/newsroom/news/europol-coordinates-eu-wide-hit-trafficking-in-human-beings-for-sexual-exploitation>

international partners, offered fast and smooth information exchange using Europol's secure channels, and constantly analysed intelligence gathered. In the crime area of trafficking in human beings, in addition to the national delegates present at Europol's operation coordination centre, an exchange of law enforcement officers from the countries of origin and the countries of destination of the trafficked human beings was paramount for the success of the operation.

### **2.2.2. Trafficking for the purpose of labour exploitation**

Trafficking for labour exploitation affected around one quarter (26%) of registered victims. Labour exploitation primarily affects males (80% of the registered victims) although in certain sectors of labour victims are predominantly women (such as domestic work). Several Member States have reported that trafficking for labour exploitation is on the rise.

Sectors reported by Member States (e.g. by AT, BG, FR, HU, LT, LU, LV) where victims are exploited concern **construction, agriculture and forestry, manufacturing, catering industry, care services, cleaning services and domestic work, entertainment, fishing, hospitality, retail and transportation.**

At the same time, **trafficking for the purpose of domestic servitude appears to affect predominantly female victims** (e.g. PL), including in diplomatic households (PL). The Group of Experts on Action against Trafficking in Human Beings ('GRETA') notes that: '[...] Trafficking for the **purpose of exploitation in domestic and care work more frequently concerns women and is more difficult to detect**, as it takes place in private households where victims can be subjected to a combination of labour and sexual exploitation, sometimes in the context of forced or sham marriages (...). Domestic and care workers are particularly vulnerable to exploitation due to the fact that in many countries the development of the private domestic and care market has been mostly uncontrolled, there are gaps in the labour legislation, and private households are usually not subject to labour inspections without a search warrant'.<sup>28</sup>

The Council of the EU identified trafficking for labour exploitation as part of the key priorities of the EU Policy Cycle for organised and serious international crime and EMPACT during both periods of 2014-2017 and 2018-2021. According to Europol,<sup>29</sup> **'The involvement of OCGs in trafficking for labour exploitation is increasing in the EU. OCGs cater to the growing demand for cheap labour across many Member States and have access to a large number of potential victims. Trafficking for labour exploitation threatens to infiltrate the legal economy, where it lowers wages and hampers economic growth'**. The same report, notes that **that the migration crisis has not had yet a significant impact on trafficking for the purpose of labour exploitation in the EU.**

Numerous reports refer to the role of **labour inspectors** to detect victims and/or increased cooperation between law enforcement and labour inspectorates (e.g. AT, BE, EL, FR, HU, LT, LU, LV, NL, UK).

**Traffickers take advantage of facilitating contexts and/or personal circumstances of people.** With particular reference to non-EU nationals, such victims remain reluctant to file

<sup>28</sup> 7<sup>th</sup> General Report on GRETA's activities, available at <https://rm.coe.int/greta-2018-1-7gr-en/16807af20e>

<sup>29</sup> <https://www.europol.europa.eu/socta/2017/resources/socta-2017.pdf>

reports with the law enforcement authorities due to their precarious status (AT). According to Europol,<sup>30</sup> ‘[...] **Traffickers continue to target less regulated industries**, as well as those featuring seasonal demand for workers. Traffickers take advantage of discrepancies in labour legislation to organise the exploitation of victims in **the grey zone between legal employment and labour exploitation**. Some victims receive wages equivalent to the minimum standard in their countries of origin’.

The role of **debt bondage** as a means has been stressed (e.g. IT), as well as that of bogus self-employment. BE reports that ‘According to the Social Inspectorate, so-called “P.O. box companies” are a real problem as regards posted workers. This kind of company is set up in a sending country, with the goal of purposefully circumventing the social security legislation and labour law in a very specific host country in general. It is therefore obvious that this type of structure has absolutely no place in the ideology of the European legislator and completely erodes the principle of the free movement of services. This bogus form of posting implies that the posting is false; in reality, the workers only provide their services for a Belgian company. Therefore, this means that these workers must be covered by Belgian social security’.<sup>31</sup>

#### **Joint EU-wide operation by labour inspectorates and law enforcement authorities**<sup>32</sup>

Europol has supported an EU-wide operation carried out by labour inspectorates and law enforcement authorities targeting organised crime groups trafficking vulnerable people for the purpose of labour exploitation. During the operational activities taking place between 28 May and 5 June 2016, two crime areas - trafficking in human beings and facilitated illegal migration - were targeted with actions carried out in dozens of key geographical hotspots (airports, border crossing points, etc.) where the likelihood of identifying potential victims of trafficking as well as traffickers and smugglers was higher.

During the span of the action week, 6 709 individuals were controlled, alongside 4 156 vehicles and 2 271 companies. As a result of these checks, 47 suspects were arrested for labour exploitation and 275 victims identified and safeguarded. Data gathered during the operation has led to the launch of 23 new investigations in order to identify further suspects and victims linked to trafficking cases across the EU. Law enforcement authorities, immigration services and labour services from 21 countries joined forces for this operation. This was the first time that labour inspectors across the EU cooperated so closely with law enforcement authorities in a coordinated way to identify, safeguard and protect victims of labour exploitation.

The operational activities targeted different sectors such as transportation, agriculture, construction, textile, food and catering industry as well as commercial activities. The competent authorities looked not only into key industries where victims are being exploited or are at great risk, but also into recruitment websites that may be being used to advertise jobs that result in victims being exploited and into suspect businesses operating across the borders. Moreover, controls took place at border crossing points in countries of origin, transit and destination. The exchange of labour inspectors between countries of origin and destination and the deployment of Member States delegates to the coordination centre set up at Europol's headquarters during the action week have significantly contributed to the success of the actions linked to trafficking in human beings.

<sup>30</sup> Ibid.

<sup>31</sup> <http://www.myria.be/files/EN-RATEH-2016-DEF.pdf>

<sup>32</sup> <https://www.europol.europa.eu/newsroom/news/europol-coordinates-eu-wide-hit-trafficking-in-human-beings-for-labour-exploitation>

### **TeamWork! Manual**

Strengthening EU cooperation against trafficking in human beings for labour exploitation was a priority of the Netherlands presidency of the Council of the European Union. The TeamWork! Manual for experts on multidisciplinary cooperation against trafficking in human beings for labour exploitation, published during the presidency, contains suggestions and advice based on contributions from all EU Member States, and more than 80 examples of cases and working practices. They cover many different aspects of addressing trafficking for labour exploitation through multidisciplinary cooperation, both at the national level and across borders, including prevention, investigation and prosecution of trafficking in human beings for labour exploitation and support and assistance for victims. The manual contains advice for twelve types of organisations, both governmental and non-governmental. The workshops held during the TeamWork! conference on 18-19 January 2016 and the council conclusions subsequently adopted by the JHA Council cover a similar range of aspects of addressing trafficking in human beings for labour exploitation and of roles that different kinds of organisations can play.

Substantial funding has been allocated by the EU to address this form of exploitation in the last decade. In terms of funding, as demonstrated in the Commission's Comprehensive Policy Review<sup>33</sup>: 'A higher proportion of EC funding is awarded to funded projects on trafficking for labour exploitation (14%) than to those on trafficking for sexual exploitation (7 %). This is despite the fact that an equal proportion of funded projects focus on trafficking for labour exploitation (12 %) as trafficking for sexual exploitation (14 %). The average EC funding per project on labour exploitation was double the average EC funding per project on sexual exploitation (EUR 569,308 and EUR 231,429 respectively)'.

### **2017 Communication Deliverables**

On global value and supply chains, in 2017 the Commission presented the Staff Working Document on 'Sustainable garment value chains through EU development action', which presents an overview of the complex garment sector and the challenges it faces, and outlines a strategy for an effective EU development cooperation response. It focuses on three priorities: economic empowerment of women, who are 75 % of garment work-force; decent work and living wages; and transparency and traceability in the value chain. Transparency is particularly important due to the fragmented production of the sector and the widespread practice of subcontracting. In this context, the Commission approved four new projects related to the garment sector, targeting in particular Bangladesh, Burkina Faso, Mali and Pakistan. These projects of around €45 million will contribute to improve sustainable business practices and working conditions in producing countries. The Commission is further finalising a call on 'Increasing Knowledge, Awareness, Transparency and Traceability for Responsible Value Chains in the Cotton and Garment Sector' incl. action on enhancing the knowledge, awareness, and global advocacy on social and environmental conditions in the garment value chains (of EUR 5.5 million).

To this end, the EU will focus its development cooperation and financial support to improve sustainable business practices and working conditions in producing countries, promote best practices for social and environmental standards, and reach out to consumers to raise awareness about how clothes are made and promote responsible choices.

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<sup>33</sup> For more information please see section 8.

It is encouraging to witness progress in identifying victims of trafficking for labour exploitation, especially given the funding allocated by the Commission for this form. The Commission will continue monitoring the implementation of the Employers' Sanction Directive<sup>34</sup> and the Anti-Trafficking Directive. The Commission stresses notes however that not all exploitative situations in the EU labour market are a result of trafficking in human beings.

### **2.2.3. Other forms of exploitation**

#### **2.2.3.1. Trafficking for forced criminality and forced begging**

A number of Member States observe that **trafficking for forced criminality and forced begging being is increasing. In 2015-2016, other forms of exploitation accounted for around a quarter (18%) of the registered victims. This form included forced criminality and forced begging among others.** The involvement of minors is also reported (e.g. AT, EL, FR). Regarding trafficking for forced criminality, Member States report on victims increasingly used in many areas of **petty crime such as pick pocketing, property crime, shoplifting, and benefit fraud.** Other types of forced criminality linked to crimes related to customs and borders have also been reported (e.g. LV).

Regarding trafficking for forced begging, Member States report that victims originate predominantly from Eastern European countries (for example, BG, RO, SK) and that persons with substance and alcohol use disorders, physically disabled, and homeless people are particularly vulnerable, while physical and psychological force is inflicted upon them.

#### **Addressing forced begging in Sweden**

The intelligence unit at the Swedish Policy Authority's Department of National Operations (NOA) collaborated with the government's National Task Force for work with vulnerable EU citizens and the Country Administrative Board of Stockholm (CABS) – as well as with other authorities and NGOs that had come into contact with the vulnerable EU citizens with regard to begging. In the light of the current situation update presented by the Swedish police, staff at the intelligence unit also made two international study visits. One visit was made to Bulgaria and one to Romania, the aim being to collaborate and exchange information relating to the situation regarding begging and the vulnerable position in which those begging find themselves. Work meetings were held with the national units of the police authorities and NGOs in Sofia and Bucharest.

#### **2.2.3.2. Trafficking for forced and exploitative sham marriages**

Europol<sup>35</sup> highlights that there has been **an increasing number of incidents of sham marriages in several Member States, with victims being women who are EU nationals and links this to the migration context and the increase in the number of irregular migrants seeking to transition to legal residence status after failed asylum applications.**

This phenomenon is reported in several narrative reports of the Member States as a growing business (e.g. BG, CY, CZ, IE, LV, SK, and PL). **Victims of this form are reported to be subsequently subjected to sexual exploitation, forced child bearing and/or labour exploitation.**

<sup>34</sup> Directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals, OJ L 168, 30.6.2009.

<sup>35</sup> <https://www.europol.europa.eu/socta/2017/resources/socta-2017.pdf>



Member States report of increasing instances of victims having entered into sham marriages or being forced into marrying non-EU nationals in order to legalise the residence in the European Union of the latter. However, they are further forced to take loans or apply for social benefits, exploiting gaps in legislation and practice. For example, BG reports that the IOM mission to Sofia observes a rising trend of marriages of convenience of Bulgarian nationals with non-EU nationals for legalizing the stay of the latter, often followed by labour exploitation or domestic servitude. Furthermore, LV reports that several cases were detected where third country nationals have used a form of marriage certificate issued by Cyprus with visible signs of falsification (names, surnames of Latvian nationals were used, as well as fictitious personal identification numbers; documents with the same registration number were issued to the various persons) to obtain residence permit in Sweden and Ireland. Spain, also, reports on a relevant pattern of different nature, whereby members of organised criminal networks select municipal authorities in which it is easy to constitute a common law marriage/cohabitation s between Nigerian women and Spanish citizens, as well as locating EU citizens willing to form such unions with trafficked women, facilitating the trafficking chain and their exploitation.

Member States report having taken action, including information and awareness campaigns, as well as targeted training for civil registrars and other officials likely to come into contact with such victims (e.g. CY, IE).

#### **Addressing exploitative sham marriages in Ireland**

The Civil Registration (Amendment) Act 2014 was enacted on 4 December 2014. The Act contains a provision to make it more difficult to broker a marriage of convenience thereby protecting vulnerable persons, usually women, from trafficking for the purpose of sham marriages. This provision is designed to counter the abuse of Irish marriage laws to gain an automatic right of residency in Europe. There have been a number of contacts from embassies about this and the dangers of trafficking of their nationals for the purpose of sham marriages to non-European Economic Area nationals. The provision gives Civil Registrars the power to ask questions and to inform immigration authorities or An Garda Síochána, if they have reason to believe a marriage is a sham. A Superintendent Registrar will also offer advice, ensure clarity and make the determination. The decision may be appealed to the Circuit Court. The provision also applies to civil partnerships. Operation Vantage in August 2015 and the coming into effect of new regulations in August 2015 under the Civil Registration (Amendment) Act 2014, and updated Free Movement Regulations, which came into effect in February 2016, improved situation in the response to sham marriage, with a disruptive effect on the organisers and facilitators as over 500 marriages have failed to proceed due to Garda investigations.

### **2.2.4. Emerging patterns of trafficking**

#### **2.2.4.1. Internal trafficking**

**Internal trafficking**, within the territory of a Member State, is reported to be on the increase. Several reports highlight that **identified victims of trafficking within the country are their own citizens** (e.g. BE, BG, DE, EL, EE, ES, HR, IE, FI, FR, PL, RO, SK). Some refer **particularly to women and girls** (e.g. ES, FR), Roma victims (e.g. BG), children (e.g. IE, PL, RO), and often with **specific reference to trafficking for the purpose of sexual exploitation**. For example, DE and HR report their own citizens are the vast majority of identified victims for some years during the reference period. Factors such as the economic

crisis, poverty and various other vulnerability factors are reported by Member States as linked to the increase of domestic trafficking.

**As mentioned, 44% of the victims are EU nationals, and it is important to note that, while the migration context brought a focus on non-EU victims, Member States reports highlight patterns of domestic trafficking of their own nationals. It should, thus, be reminded that efforts to address trafficking must continue to be taken in a comprehensive manner, equally focussing on all victims, as trafficking is crime fuelled by the profits it brings to perpetrators and by the demand for services exacted by the victims.**

#### **2.2.4.2. Child trafficking**

Children were almost one quarter (**23%**) of the registered victims. Europol underlines the role that families and kinship play noting also that traffickers also target minors without family such as homeless children, those in juvenile foster care, and in orphanages, from where they are encouraged to escape with their assistance<sup>36</sup>.

Member States express concerns over child trafficking, reporting that EU and non EU children are predominantly trafficked for the purpose of sexual exploitation, disproportionately affecting girls (e.g. BE, DE, IT, FR, RO), including for the production of Child Sexual Abuse Material (CSAM)<sup>37</sup>, as well as forced begging, forced criminal activities, forced marriage (e.g. BE, EL, FI, SI), and more.

Member States generally report that **the age of victims is dropping, and all the more younger victims are identified.** The particular vulnerability of children from Eastern European countries is also mentioned (e.g. BE, IT, DK), as well as that of **children from Roma communities** (e.g. AT, BE, BG, FR, IT, NL), with traffickers reportedly being from the same community. BE highlights that Roma girls are also often trafficked for multiple forms of exploitation at the same time, such as: forced marriage, domestic servitude, sexual exploitation (and/or abuse). Civil society echoes this concern, highlighting that forced marriage also facilitates further exploitation.

#### **Child Victims of Sexual Exploitation**

According to national data referred to in GRETA reports<sup>38</sup> the majority of girls fall victim to trafficking for the purpose of sexual exploitation, including the production of child abuse material, but this form of trafficking affects boys as well. Children are also subjected to trafficking for the purposes of forced labour, forced begging, forced criminal activities and domestic servitude. Further, some countries report cases of trafficking of girls for the purpose of forced marriage. Children are being trafficked transnationally as well as internally; for example, in Romania the share of internal trafficking amongst children identified as victims amounted to 78%. In Bulgaria, the share of internal trafficking is also considerable (around 45%). The number of UK children trafficked internally for the purpose of sexual exploitation has been on the increase. (...)

Amongst particularly vulnerable groups, Member States list children in social care institutions (e.g. HU, LV, NL, SK). Furthermore, in the context of migration, the European Border and

<sup>36</sup> Europol, Situation Report on Criminal networks involved in the Trafficking and Exploitation of Underage Victims in the European Union, 2018

<sup>37</sup> <https://www.europol.europa.eu/socta/2017/resources/socta-2017.pdf>

<sup>38</sup> <https://rm.coe.int/1680706a42>

Coast Guard Agency<sup>39</sup> highlights **that girls are disproportionately victims of trafficking for the purpose of sexual exploitation.**

The EU legal and policy framework is gender specific and child sensitive. A number of provisions of the Anti-trafficking Directive are based on the best interest of the child, and establish additional protections for all child victims, regardless of their nationality or status. Addressing child trafficking has been at the core of EU anti-trafficking agenda since 2012, and key deliverables of the EU Strategy concerned children,<sup>40</sup> and the 2017 Communication further takes into account their vulnerability.

Funding continues to support relevant action. According to the Commission's Comprehensive Policy Review, 23% of the projects funded in the period 2004-2015 concerned children, including on identification, child protection systems, asylum, guardianship, and provision of information, receiving 19% of the total EC funding allocated, and counting as the second most funded group of projects. As set forth as a cross cutting priority in the 2017 Communication, the Commission will continue supporting anti-trafficking priorities and objectives, taking into account vulnerable groups, such as children, as well as addressing the gender dimension of the crime.

The Commission values the role of civil society organisations in the joint efforts to address trafficking in human beings, and continues to engage with NGOs working in the field of child trafficking as well as child rights organisations, including in the context of the EU Civil Society Platform against trafficking in human beings. To this end, a targeted call for expression of interest was dedicated to organisations working with child victims, and workshops concerning child trafficking have been organised in the context of the biannual meetings of the Platform.

Child trafficking remains one of the priorities of the EU policy cycle for organised and serious international crime 2018-2021, which largely determines the work of Europol for the coming years. This is in line with Commission's policy priorities and the Commission continues to support Europol and law enforcement authorities, as well as other relevant EU Agencies in their efforts.

#### **2017 Communication Deliverables**

As per priority B 'Provide better access to and realise the rights for victims of trafficking', work is ongoing for developing, in cooperation with the European Agency of Fundamental Rights, a **practical guidance to enhance inter-agency and transnational cooperation aiming to prevent child trafficking of EU children**, ensure protection of child victims, find durable solutions and safeguard their rights under EU and international law.

#### **EU-wide Action week against child trafficking**

During the week of 2 July 2018, law enforcement officers from 22 Member States, other European countries and partner agencies actively participated in a European Multidisciplinary Platform Against Criminal Threats action on child-trafficking. As a result, 51 children and 72

<sup>39</sup> [https://frontex.europa.eu/assets/Publications/Risk\\_Analysis/Risk\\_Analysis/Risk\\_Analysis\\_for\\_2018.pdf](https://frontex.europa.eu/assets/Publications/Risk_Analysis/Risk_Analysis/Risk_Analysis_for_2018.pdf)

<sup>40</sup> The Commission and the European Fundamental Rights Agency published a Handbook on guardianship for children deprived of parental care, with a particular focus on child victims of trafficking. The Commission also published a Study on High Risk Groups, in particular children.

adults were identified as potential victims of trafficking. The youngest child was only two 2 years old. The children were exploited for labour, forced begging and sexual purposes. Several links to migrant smuggling and document forgery were also identified. 45 new cases have been initiated; 24 suspects were arrested for trafficking in human beings offences; and a further 61 suspects were arrested in relation to other crimes.

The actions focused mainly on hotspots for sexual exploitation, forced begging and forced criminality (e.g. pickpocketing and minor thefts), and intensified activities at border crossing points. As the identification of victims of trafficking in human beings remains very challenging, particularly the identification of child victims, many participating countries also undertook prevention and awareness raising activities.

### **2.2.4.3. Vulnerability of Roma victims**

Over the years, the European Commission has highlighted the need to address the trafficking in Roma people, including the first Progress report, the Study on High risk groups<sup>41</sup>, the study on Comprehensive policy review of EC funded anti-trafficking projects and in the 2017 Communication.

While the Commission has no available statistical data on victims of trafficking based on ethnic backgrounds, several Member States reports highlight the **heightened vulnerability of people from Roma communities, especially women and children** (e.g. BE, BG, FR, NL, SI), with traffickers exploiting kinship. **Women and girls with Roma background are reportedly victims of trafficking for sexual and labour exploitation, but also for the purpose of exploitative sham marriages.** Regarding trafficking for sexual exploitation, FR for example reports that prostitution from Eastern European countries concerns almost exclusively the Roma community from BG and RO. Member States report (e.g. FR, IT) that the recruitment is often intra-community, and organised around the head of the clan.

According to Member States, the analysis of the investigations on sexual exploitation cases in Roma communities once more indicates the **strong gender dimension of this phenomenon.** It demonstrates that the **exploitation in prostitution is often perpetrated by the men in the group**, and the profit generated are paid directly to the pimps, who re-invest in luxury cars or real estate in their home country. Girls and women often of Roma origin that have lived in an unhealthy family environment, of low social status and education, are forced into street prostitution (e.g. BG). Member States also report on **Roma female victims of trafficking for the sale of new-born babies** (e.g. BG) and a **new pattern of trafficking for forced underage marriage of girls usually in Roma communities** (e.g. SI). Regarding the latter, SI reports that in 2015 the first final judgment was recorded on trafficking in human beings for the purpose of slavery, which reflected the circumstances and exploitation purposes of forced marriage. Roma children from Eastern Europe being forced to thefts and pick pocketing by adults are also reported (e.g. NL).

In this context, GRETA<sup>42</sup> reports that ‘Although the lack of official disaggregated data according to ethnicity precludes a reliable assessment of the occurrence of human trafficking in the Roma communities, there is evidence that Roma, in particular Roma women and children, are highly vulnerable to trafficking due to structural forms of ethnic and gender discrimination, poverty and social exclusion which result in low educational achievement,

<sup>41</sup> [https://ec.europa.eu/anti-trafficking/eu-policy/study-high-risk-groups-trafficking-human-beings\\_en](https://ec.europa.eu/anti-trafficking/eu-policy/study-high-risk-groups-trafficking-human-beings_en)

<sup>42</sup> <https://rm.coe.int/1680706a42>

high levels of unemployment, domestic violence and difficult living conditions that affect predominantly women and children'. GRETA further underlined that several of its reports published in 2016 refers to cases of trafficking for the purpose of forced begging of Roma children (e.g. BG, HR), and for the purpose of early/forced marriage of Roma girls (e.g. HR) Unregistered children are at higher risk of being trafficked. GRETA's reports note that the absence of registration at birth affects mainly children from the Roma communities.

#### **Methodological Guidance for the Identification of Victims of Trafficking in Roma Communities**

The Office of the Plenipotentiary of the Government of the Slovak Republic for Roma Communities in cooperation with the Ministry of the Interior prepared the publication 'Methodological Guidance for the Identification of Victims of Trafficking in Roma Communities'. The aim of this handbook is to address prevention and raise awareness by working with this vulnerable group in order to improve the identification of victims of trafficking and to participate in a specialized programme as well as to strengthen preventive activities by raising awareness of this vulnerable group. This Methodological Guidance was distributed to all field social workers within the Field Social Work national programme.

In June 2016, the Commission adopted a **Communication assessing the implementation of the EU Framework for National Roma Integration Strategies and the Council Recommendation on effective Roma integration measures in the Member States**<sup>43</sup>. It further highlights that Roma women face multiple forms of discrimination (violence, trafficking in human beings and underage and forced marriages, and begging involving children), highlighting a need for targeted measures as part of a gender specific and child sensitive strategic approach. Amongst other things, the Communication underlines that action in these areas is largely lacking, despite indications of an increase in the trafficking of Roma for these purposes, and calls on Member States to address several urgent priorities, including: to enforce anti-discrimination and anti-racism and xenophobia legislation and safeguards at national and local levels by, amongst others, addressing trafficking in human beings with gender specific and child sensitive measures.

According to the **Commission's Comprehensive Policy Review**, one of the often identified vulnerable groups to trafficking in the funded projects in the data set was people of Roma descent, especially Roma children. A number of funded projects addressed trafficking of Roma people, especially children. The types of activities included in these projects were awareness raising, training and the development of various toolkits for a multi-agency audience. Underpinning most funded projects was a desire to improve harmonisation and coordination between source and transit/ destination countries. Some funded projects had the safe return of Roma children to their country of origin as their primary focus. All positioned children of Roma origin, principally from Bulgaria and Romania, to be especially vulnerable.

The **Communication of the European Commission on the Midterm review of the EU framework for national Roma integration strategies**<sup>44</sup> highlights its work to tackle multiple discrimination against Roma children and women, as groups exposed, among others, to high risks of violence and trafficking in human beings and to ensure that they are better protected. In its 2016 resolution, the European Parliament highlighted the fact that Roma people are

<sup>43</sup> COM(2016) 424 final, <https://ec.europa.eu/transparency/regdoc/rep/1/2016/EN/1-2016-424-EN-F1-1.PDF>

<sup>44</sup> COM(2017) 458 final.

particularly vulnerable to trafficking in human beings due to their social and economic marginalisation, and pointed to the need of data regarding Romani women and children<sup>45</sup>.

#### **2.2.4.4 Persons with disabilities and dependencies and emerging patterns**

Member States (e.g. AT, BG, FR, HU, IT, LT, LV, NL, PL, SK) report that traffickers increasingly target persons with physical or mental disabilities and persons with substance and alcohol use disorders. These categories are reported to have been trafficked for forced begging with perpetrators often sharing the same nationality of the victims (mainly Romania, Eastern Europe), but also sexual exploitation (e.g. NL). Homeless (e.g. HU, SK) and people addicted to drugs or alcohol (e.g. FR, HU, SK) are also indicated as targeted. Victims are trafficked domestically and internationally. Exploitation of these categories of people is further reportedly linked to drug trafficking and criminal gangs in their pursuit of profit maximisation.

In addition to the emerging patterns and trends highlighted above, Member States have mentioned **cases of trafficked pregnant women for the purpose of selling their new-borns (e.g. BG), “bitumeurs” travellers (e.g. FR), trafficking for forced criminality** with crimes in the sphere of **customs trafficking for organs or human tissue removal (e.g. BG, PL), heavy loan commitments** became new vulnerability factor (e.g. BG), and the **increase in the number of young perpetrators (e.g. NL)** at the time of committing the crime. Another pattern reported is a **shift from random to targeted recruitment, focusing on specific groups (e.g. IT, SI) in response of changes in the demand (e.g. IT, RO) or as a means of deceiving controls by law enforcement (e.g. IT).**

### **3. TRAFFICKING IN THE CONTEXT OF INTERNATIONAL MIGRATION**

Member States and other sources<sup>46</sup> report concerns on criminal networks involved in trafficking in human beings taking advantage of the irregular migration routes. Traffickers take advantages of opportunities and vulnerabilities, including the migration challenges, but it is also important to note, further to recalling that many of the registered victims are EU nationals, including those trafficked within their own Member State, that non EU victims registered in the EU do not only come from **countries of first arrival**.

Some Member States report on **increasing numbers of Nigerian victims trafficked mainly for sexual exploitation, and on decreasing age** (e.g. BE, DK, EL, ES, FI, IT). Member States experiencing arrivals of mixed migration flows (e.g. EL, IT) point out to the **difficulties in establishing identities of migrants and identifying or detecting victims or potential victims of trafficking**. They would also welcome more focus on victims of trafficking in the context of responses to the migration crisis (e.g. EL).

#### **Frontex Risk Analysis Report 2018**

In the Risk Analysis Report 2018<sup>47</sup> the European Border and Coast Guard Agency underlines that: [Victims] come in large numbers from Nigeria, but also from such countries as Cameroon, Ghana, Guinea, Côte d’Ivoire and Sierra Leone. (...) The Nigerian victims are mostly women and increasingly younger girls, many of whom are minors. Although

<sup>45</sup> 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)).

<sup>46</sup> See for example, Europol, Two years of EMSC, 2017 January-2018 January, at: <https://www.europol.europa.eu/publications-documents/two-years-of-emsc>

<sup>47</sup> [https://frontex.europa.eu/assets/Publications/Risk\\_Analysis/Risk\\_Analysis/Risk\\_Analysis\\_for\\_2018.pdf](https://frontex.europa.eu/assets/Publications/Risk_Analysis/Risk_Analysis/Risk_Analysis_for_2018.pdf)

trafficking from Nigeria has, for decades, supplied the European sex market, the spike in the number of Nigerian females arriving in mixed migration flows to Italy (and, to a lesser extent, Spain), has brought the phenomenon of trafficking in human beings from Nigeria to light. Currently, Nigeria represents the top nationality of third-country victims of trafficking in human beings in the EU.

The need to address trafficking in human beings in the context of international migration has been recognised in the New York Declaration, and the negotiations leading to the adoption of the Global Compact for Safe, Orderly and Regular Migration (GCM) with a dedicated objective and actionable commitments.

According to UNODC 2016 Global Report ‘Although many cases of trafficking in persons do not involve the crossing of international borders – some 42 per cent of the detected victims are trafficked domestically - there are some links between cross-border trafficking and regular migration flows. Certain trafficking flows resemble migration flows, and some sizable international migration flows are also reflected in cross-border trafficking flows. The analysis of country-level data on detected trafficking victims and recently arrived regular migrants reveals that trafficking in persons and regular migration flows broadly resemble each other for some destination countries in different parts of the world. Many factors can increase a person’s vulnerability to human trafficking during the migration process, however. The presence of transnational organized crime elements in the country of origin, for instance, is significant in this regard, and a person’s socio-economic profile can also have an impact’.

### **2017 Communication Deliverables**

The Commission continues to publish calls for proposals to support the integration of non-EU nationals who are victims of trafficking under the Asylum Migration and Integration Fund (AMIF). Priority five of the 2017 AMIF call for Union grants<sup>48</sup> followed up to the findings of the first progress report, and the Comprehensive Policy Review<sup>49</sup>, including in encouraging proposals targeting, but not limited to, trafficking for the purpose of sexual exploitation, as well as taking into account the Commission’s decision of designating 2017 as year of focused action to combat violence against women and girls. Out of 21 proposals for this call, for 8 proposals the signing of the grant agreement is under process for up to a total amount of EUR 3.548.111. Priority three of the 2018 AMIF call<sup>50</sup> further aims at strengthening relevant stakeholders in implementing the Anti-Trafficking Directive, with respect to provisions on assistance and support for victims (Art. 11, 13 and 14), taking into consideration the gender specific nature of this phenomenon as well as the high-risk groups, including children, and the sectors it affects.

Considering the outcomes of the first progress report, further efforts have been promoted to support national authorities in addressing trafficking in human beings in the context of the hotspots approach. Two thematic workshops have been organised in close cooperation with the EU Regional Task Forces in Italy and Greece, including relevant EU Agencies and national authorities (respectively, on 13 December 2017 and 7 May 2018). The focus was placed on operational efforts to improve early detection and appropriate referral of presumed

<sup>48</sup> <https://ec.europa.eu/research/participants/portal/desktop/en/opportunities/amif/topics/amif-2017-ag-inte-05.html>

<sup>49</sup> [https://ec.europa.eu/anti-trafficking/publications/comprehensive-policy-review-anti-trafficking-projects\\_en](https://ec.europa.eu/anti-trafficking/publications/comprehensive-policy-review-anti-trafficking-projects_en)

<sup>50</sup> <http://ec.europa.eu/research/participants/portal/desktop/en/opportunities/amif/topics/amif-2018-ag-inte-3.html>

victims, ensuring a gender specific and child sensitive approach, and on enhancing investigations of cases of trafficking in human beings in mixed migration flows.

It is encouraging to witness progress in identifying non-EU national victims of trafficking. At the same time, the Commission underlines the importance of ensuring that this is not done to the detriment of other victims, including EU nationals.

### **3.1. Conceptual clarity – Trafficking in human beings and migrant smuggling**

In order to ensure better policy and funding allocation, the Commission has consistently stressed, in line also with the findings of the first progress report, the need for conceptual clarity when it comes to trafficking in human beings and migrant smuggling.

As the UNODC 2016 Global Report<sup>51</sup> notes ‘not all trafficking victims are smuggled migrants [...] While trafficking in persons is a crime that aims to exploit a person who may or may not be a migrant, smuggling of migrants is always cross-border and does not, by definition, involve the exploitation of the migrant’ It is thus important to stress that while linked, **they are different crimes that require different responses with regard to the protection and assistance needs of trafficking victims and smuggled migrants.** Civil society submissions further stress the need to ensure conceptual clarity, and the significant implications on the rights of the victims and the obligations of the Member States.

Europol<sup>52</sup> indicates that in 25% of the cases migrant smuggling suspects have also links with trafficking in human beings, referring to migrant smuggling, together with document fraud, as supporting offences<sup>53</sup> for trafficking in human beings, a way of enabling the different stages of the trafficking cycle. In this respect, Europol<sup>54</sup> also underlines that “*it is important not to confuse the two concepts of smuggling and trafficking in human beings, as trafficking involves the use of threats or force, or other forms of coercion to exploit the person*”.

It has to be ensured that trafficking in human beings is appropriately addressed in the context of migration, taking into account emerged patterns, such as the disproportionate targeting of women and girls trafficked for the purpose of sexual exploitation.

### **3.2. Trafficking and international protection**

Links between trafficking and asylum continue being reported by the Member States (e.g. AT, EL, ES, IT), either in instances of increase in numbers of victims of trafficking found in asylum systems or where organized criminal groups abuse asylum systems. In this respect, Europol has warned that ‘OCGs involved in trafficking in human beings also continue to exploit asylum provisions in order to traffic non-EU nationals into the EU. In many occasions, victims are provided with fraudulent documents to conceal their real identity and age’<sup>55</sup>.

Member States report of instances where **traffickers require victims to apply for international protection, in an attempt to regularise their status in the country** (e.g. ES), or victims are instructed by traffickers to apply for asylum under false declarations (e.g. AT).

<sup>51</sup> [http://www.unodc.org/documents/data-and-analysis/glotip/2016\\_Global\\_Report\\_on\\_Trafficking\\_in\\_Persons.pdf](http://www.unodc.org/documents/data-and-analysis/glotip/2016_Global_Report_on_Trafficking_in_Persons.pdf)

<sup>52</sup> [https://www.europol.europa.eu/sites/default/files/documents/two\\_years\\_of\\_emsc\\_report.pdf](https://www.europol.europa.eu/sites/default/files/documents/two_years_of_emsc_report.pdf)

<sup>53</sup> <https://www.europol.europa.eu/sites/default/files/documents/europol-review-2016.pdf>

<sup>54</sup> <https://www.europol.europa.eu/sites/default/files/documents/europol-review-2016.pdf>

<sup>55</sup> Europol, Situation Report Trafficking in human beings in the EU, 2016.

<https://www.europol.europa.eu/publications-documents/trafficking-in-human-beings-in-eu>



Pending a decision on the asylum claim, traffickers reportedly take advantage of the circumstances, as exploitation might still take place while victims receive accommodation in temporary reception centres (e.g. IT).

AT reports on victim protection services identifying links with asylum procedures: a) victims escape from their traffickers in Austria, or another EU Member State, and subsequently apply for asylum in Austria; b) victims are instructed by their traffickers to apply for asylum in Austria, with false declarations (see section on Nigerian or Chinese women above); c) victims are recruited by traffickers after their asylum application due to their precarious situation; and d) people who resorted to smugglers to bring them to a specific location in Europe, that end up being trafficked and heavily exploited on their way.

Issues arise as to the recognition of the status of victim based on exploitation that took place outside the country in which the victims are present (e.g. AT, EL, FI, IT, SE). IT reports that, to address these challenges, Territorial Commissions use guidelines developed in 2016 with UNHCR for identifying and granting victim status. FI reports of new legislation having entered into force in 2015, enabling the assistance system for victims of trafficking to formally identify persons as victims of trafficking, if they have been subjected to exploitation abroad. In this respect, FI reports that an increasing percentage of decisions by the Finnish Immigration Service's concern Nigerian women subjected to trafficking for sexual exploitation in Italy. In the autumn of 2016, the Finnish Non-Discrimination Ombudsman published a report on the practices in applying the Aliens Act<sup>56</sup> to victims of trafficking with a Nigerian background. Based on the data consisting of residence permit decisions (2015 – July 2016), the Finnish Non-Discrimination Ombudsman concluded that the practice in applying the Aliens Act is partially unpredictable and inconsistent. IT reports that asylum claims lodged by (potential) victims of trafficking show common patterns, depending on the gender and the origin of the victim: women from Nigeria mainly base their claims on fear of persecution related to sexual and gender based violence, including: forced marriage, domestic violence, female genital mutilation and rape, cult-related violence, inter-religious conflicts, sexual orientation and gender identity, presence of terrorist groups in parts of their countries of origin, such as Boko Haram. Men (potential) victims of trafficking from Bangladesh, are reported claiming they left the country of origin fearing persecution on the grounds of their political opinion or family disputes.

EASO<sup>57</sup> continued its work on the asylum and trafficking nexus, and organised its annual conferences on trafficking in human beings with thematic focuses on common challenges and possible practical responses to the current situation of asylum-seeking victims of trafficking with a focus on the migratory crisis, as well as on trafficking in human beings in mixed migration flows.

#### **Victims of trafficking in human beings who are refugees**

The UN Inter-Agency Coordination Group against Trafficking in Persons (ICAT) notes that while not all victims of trafficking are refugees, depending on the circumstances, some victims of trafficking will qualify for refugee status under the 1951 Refugee Convention or regional refugee instruments<sup>58</sup>. It goes on to stress that “Refugees and asylum-seekers are particularly vulnerable to abuse and exploitation at different stages of their flight, including at their destination. They may be compelled to use smugglers as their only means to flee

<sup>56</sup> <https://www.syrjinta.fi/documents/14490/0/nigeriasselvitys+englanti/7d03d19d-bf75-4ff4-952a-e0bd4fbe2dd4>

<sup>57</sup> <http://publications.europa.eu/webpub/easo/annual-report-2016/en/>

<sup>58</sup> ICAT Policy Brief no. 3, Trafficking in Persons and Refugee Status, September 2017.

persecution, conflict and violence without travel or identity documents, to cross dangerous terrain and to circumvent border controls that prohibit access to asylum-seekers, exposing them to risk. Once at their destination they may encounter discrimination, restrictions on freedom of movement, inadequate or non-existent livelihood or educational opportunities, and experience limited access to humanitarian assistance or other support systems. This can push them to solicit smugglers in order to move in search of better protection and/or opportunities, or into the hands of traffickers who may prey on refugees and asylum-seekers residing in camps, reception centres or other settlements”<sup>59</sup>.

#### **4. PROFILES AND HOW THE TRAFFICKERS WORK**

Traffickers adjust constantly the way they operate. Member states have reported extensively on the how traffickers operate. Some reports observe a shift towards **limiting the use of physical force and using more psychological control**. Nevertheless, the use of **severe physical violence** is also reported. Member States highlight changes in the modus operandi with respect to **less visible forms of coercion, a certain degree of possibility for movement, less evident forms of intimidation, threats, and a shift towards psychological violence** (such as BG, CY, IT), threat or menaces to the victim or the family of the victim (e.g. IT), **especially in trafficking for sexual exploitation**.

Some Member States (e.g. LT) report that victims were recruited through direct, eye to eye contacts or through phone-calls. Regarding trafficking for sexual exploitation, Member States’ reports indicate the coexistence of well-structured organised crime networks (.g. ES, IT), with ‘cells’ in origin, transit and destination countries (e.g. IT), with smaller groups (e.g. RO) and less structured methods (e.g. BE), and individual offenders (e.g. AT), loosely formed criminal groups (e.g. LT). Some Member States (e.g. CZ) also report that alongside subtle forms of coercion in case of sexual exploitation, the offenders used threatening and physical assault as a means to coerce the victim. Moreover, the victims were forced by the offenders to make use of drugs in order to ensure their obedience as a means of coercion.

According to Europol ‘the sexual exploitation of EU nationals no longer relies predominantly on the use of violence and coercion towards victims. Some OCGs are increasingly relying on threats of violence towards victims and their families rather than attacking the victim. 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 modi operandi’.

Some Member States report on using **deception and emotional dependency of victims** (some refer to it as ‘loverboy method’). For example, AT reports that under the pretext of a future life together and the prospect of earning a considerable amount of money in a short time, victims are persuaded to work in prostitution in Austria. When the victims realize that they are not allowed to keep any income or when they express the wish to stop working in prostitution, traffickers use threats or physical violence. Member States also stress **the role of kinship in recruitment**, such as families, relatives, friends or acquaintances. Many Member States report that traffickers come from the same background as victims. There is also an increase **in own nationals treated as suspects by Member States**. In one case (e.g. DE) this was indicated as the largest reported nationality group.

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<sup>59</sup> Ibid.

Transnational organised crime is highlighted in reports by Member States (e.g. ES, IT, AT, FR), and some underline that multinational networks, at times consisting of different ethnic groups, are often specialised (e.g. IT) on a territory or a specific phase of the trafficking chain (transfer, document fraud, exploitation). According to analysis by the IT authorities, with respect to trafficking sexual exploitation, investigations have also documented the actual sale of young victims between groups of different nationalities (for example, between Albanian and Romanian groups).

The criminal markets of destination are also those of drug trafficking, sexual exploitation and prostitution, labour exploitation in agriculture and construction, begging and criminal activities that bring profits to traffickers. In this context, Romania reports having also observed the mobility and flexibility of criminal groups that tend to act concurrently in several countries, especially in countries where there is demand in the sex industry, labour market, and where conditions conducive to juvenile delinquency exist. There is also a shift of criminal groups to the sexual exploitation of victims internally, with minor victims being preferred because they are easily recruited and controlled/exploited (e.g. RO).

With regard to the new trends, Member States report on the **increasing participation of women in the criminal organizations for trafficking in human beings assuming increasingly skilled roles in the recruitment, transfer, subjugation and surveillance of the victims**. This trend involves all ethnic groups, albeit with varying intensity, predominantly in Nigerian criminal groups.

#### **United Nations Office on Drugs and Crime Global Report 2016<sup>60</sup>**

The UNODC Global Report 2016 report states that ‘Traffickers and their victims often come from the same place, speak the same language or have the same ethnic background. Such commonalities help traffickers generate trust to carry out the trafficking crime. Being of the same gender can also enhance trust. Data from court cases indicate that women are commonly involved in the trafficking of women and girls, in particular. Most of the detected victims of trafficking in persons are females; either women or underage girls. While traffickers are overwhelmingly male, women comprise a relatively large share of convicted offenders, compared to most other crimes. This share is even higher among traffickers convicted in the victims’ home country. Court cases and other qualitative data indicate that women are often used to recruit other women. Family ties can also be abused to carry out trafficking crimes. For instance, this is seen in cases of relatives entrusted with the care of a family member who break their promise and profit from the family member’s exploitation’.

#### **4.1. The use of information and communication technologies**

According to Europol, the internet provides offenders and potential offenders with an environment in which they can operate with an enhanced level of safety and anonymity<sup>61</sup>. Member States highlighted **the use of internet and social networking tools by traffickers for the recruitment of victims** (e.g. BE, BG, CY, FR, IE, IT, LV, NL, PL, RO), including children (e.g. HR), for **organizing transportation and logistics** (e.g. BG), for the **exploitation of the victims** (e.g. IT, DE), including through **dissemination and production of pornographic material** (e.g. RO), and as a **marketing platform for prostitution** in

<sup>60</sup> <https://www.unodc.org/unodc/data-and-analysis/glotip.html>

<sup>61</sup> <https://www.europol.europa.eu/activities-services/main-reports/european-union-serious-and-organised-crime-threat-assessment-2017>

particular when the sexual exploitation of the victim takes place in flats and hotels (e.g. DE) and for **controlling victims** (e.g. BG). The use of **encryption technology by traffickers** is also reported as a challenge to be addressed (e.g. PL).

Europol<sup>62</sup> reports that ‘a growing amount of illicit trade now has an online component, meaning that cybercrime investigative capabilities are increasingly in demand in all serious organised crime investigations. Dark net markets remain a key crosscutting enabler for other crime areas, providing access to, amongst other things, compromised financial data to commit various types of payment fraud, firearms, counterfeit documents to facilitate fraud, trafficking in human beings, and illegal immigration’. EIGE<sup>63</sup> furthermore stresses that the gender dimension of cybercrime and the various forms of cyber violence against women and girls, from trafficking of women and girls, to cyber stalking, non-consensual pornography (or ‘revenge porn’), gender-based slurs and harassment, ‘slut-shaming’, unsolicited pornography, ‘sextortion’, rape and death threats, ‘doxing’. EIGE highlights the importance for EU level institutions and agencies combatting cybercrime to tackle gendered forms of cybercrime; particularly the online luring or ‘recruitment’ of women and girls into harmful situations such as trafficking. GRETA<sup>64</sup> further notes the growing trend of recruitment via the Internet, including on social media, through which a larger number of potential victims can be targeted.

## **5. PREVENTING TRAFFICKING IN HUMAN BEINGS BY COUNTERING THE CULTURE OF IMPUNITY**

**Countering the culture of impunity and increasing accountability remains one of the key priorities areas of the 2017 Communication.**<sup>65</sup> Disrupting the business model, following the money and untangling the trafficking chain remains in focus, as this Communication stresses that **profits on lawful and illicit markets and demand for the services and goods provided by victims of trafficking in human beings remain high wherever a culture of impunity for both perpetrators and users prevails.**

As noted in the 2017 Communication ‘given the harm caused to the victims, prevention should remain a cornerstone of the EU anti-trafficking action’. Furthermore, prevention remains a pillar of Anti-Trafficking Directive and Member States have a legal obligation as per its Art. 18 to take appropriate measures, such as education and training, to discourage and reduce the demand that fosters all forms of exploitation related to trafficking in human beings; to take appropriate action, including through the Internet, such as information and awareness-raising campaigns, research and education programmes, where appropriate in cooperation with relevant civil society organisations and other stakeholders, aimed at raising awareness and reducing the risk of people, especially children, becoming victims of trafficking in human beings; to promote regular training for officials likely to come into contact with victims or potential victims of trafficking in human beings; and to consider taking measures to criminalise the use of services exacted by victims of trafficking.

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<sup>62</sup> <https://www.europol.europa.eu/activities-services/main-reports/internet-organised-crime-threat-assessment-iocta-2017>

<sup>63</sup> [http://eige.europa.eu/sites/default/files/documents/cyber\\_violence\\_against\\_women\\_and\\_girls.pdf](http://eige.europa.eu/sites/default/files/documents/cyber_violence_against_women_and_girls.pdf)

<sup>64</sup> <https://rm.coe.int/greta-2018-1-7gr-en/16807af20e>

<sup>65</sup> [https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/20171204\\_communication\\_reporting\\_on\\_follow-up\\_to\\_the\\_eu\\_strategy\\_towards\\_the\\_eradication\\_of\\_trafficking\\_in\\_human\\_beings.pdf](https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/20171204_communication_reporting_on_follow-up_to_the_eu_strategy_towards_the_eradication_of_trafficking_in_human_beings.pdf)

As the first progress report notes ‘Trafficking in human beings is a demand and profit driven crime. Prevention must be placed in the wider context of a crime being driven by profits and demand. A human rights-based approach focusing on victims needs to address prevention appropriately and effectively, and discourage the demand that fosters all forms of trafficking, as clearly stipulated in the Anti-trafficking Directive. This means not only addressing the root causes that make people more vulnerable to trafficking – such as poverty, gender inequality and violence against women, ethnic discrimination, societal marginalisation, irregular migration – but also ensuring that those who profit from the crime and exploit the victims are brought to justice’.

Addressing trafficking in human beings is also part of the EU wide efforts towards the realisation of an effective and genuine Security Union<sup>66</sup>, aimed at guaranteeing a high level of security for the people living in the EU.

### **2017 Communication Deliverables**

As per priority A of the 2017 Communication ‘Stepping up the fight against organised criminal networks by means including disrupting the business model and untangling the trafficking chain’, the Commission has encouraged and assisted EU national authorities through its coordination activities (including the meetings of the NREMs), as well as with funding. The 2017 ISF-Police<sup>67</sup> a call for proposal for Union grant was published to support priorities on ‘Profile/modus operandi of traffickers/criminal organized groups/links with other forms of serious and organized crimes, prosecutions and convictions’ and for ‘Actions focusing on the wider trafficking chain, including the profits involved in trafficking in human beings’. Funding has thus become available to national authorities and civil society for transnational actions in this context. For the 2017 call, four proposals were awarded a total budget of 1.293.361 EUR.

Many Member States (e.g. BG, FR, LT, LV) report on vulnerability factors making people prey of traffickers, such as socio-economic vulnerabilities, including poverty, poor education, difficult material circumstances, homeless, addicted, disabled, minority origin, migration, children in institutional care and gender inequalities. **It is important to note, however, that vulnerabilities do not alone result in trafficking. Trafficking is also driven by huge profits it renders to OCGs.**

As Europol notes<sup>68</sup> the use of legal businesses to cover the exploitative activities is quite common for traffickers. Suspects often buy, rent and make use of legal companies to cover their illicit activities and launder the profits. Among the cases reported, restaurants, hotels, cocktail bars, dance clubs, shops, car retailers, car washes, etc., were used to organise sexual encounters and for money laundering purposes. Some of the reported groups systematically used complicit employment companies to obtain legitimate work contracts for their victims. In countries where prostitution is legal, suspects were able to exploit minors alongside adults

<sup>66</sup> Sixth progress report towards an effective and genuine Security Union (Brussels, 12.4.2017 COM(2017) 213 final ) and Part 1 and Part 2 of the Commission Staff Working Document- Comprehensive Assessment of EU Security Policy ( 26.7.2017 SWD(2017) 278 final) accompanying the Ninth progress report towards an effective and genuine Security Union ( 26.7.2017 COM(2017) 407 final).

<sup>67</sup> Internal Security Fund -Police Call for proposals document Organised crime–projects addressing trafficking in human beings ISFP – 2017 - AG – THBX. Available at: [https://ec.europa.eu/anti-trafficking/eu-policy/open-calls-proposals-projects-addressing-trafficking-human-beings\\_en](https://ec.europa.eu/anti-trafficking/eu-policy/open-calls-proposals-projects-addressing-trafficking-human-beings_en)

<sup>68</sup> Europol, Situation Report on Criminal networks involved in the Trafficking and Exploitation of Underage Victims in the European Union, 2018

in window prostitution, sex studios, nightclubs, etc., often with the support of the business managers, as prostitution of minors can be very profitable for human traffickers, as clients are generally prone to pay more to have sex with a child.

As Frontex Risk Analysis 2018<sup>69</sup> highlights ‘trafficking in human beings is currently one of the most profitable forms of organised crime, generating billions of euros for traffickers. Europe, which comprises some of the wealthiest nations in the world, has long been an important market for the exploitation of victims, particularly through sexual exploitation, forced labour, exploitation of criminal activities, begging and illegal adoption. The high levels of supplying origin countries, coupled with the demand for cheap labour and sexual services in the destination countries, are among the most common root causes of human trafficking’.

This section examines progress **in investigating, prosecuting and convicting the crime, as well as measures taken to address prevention and demand reduction.**

### **5.1. Encouraging the criminalisation of the use of services provided by the victims**

Further encouraging those Member States, to the extent they have not done so, to criminalise those who knowingly use the services provided by victims of trafficking is at the core of the European Commission priorities to prevent trafficking in human beings as per the 2017 Communication.

Article 18(4) of the Anti-trafficking Directive encourages Member States to consider criminalising the use of services of victims of trafficking in the knowledge that they are trafficked. Furthermore, the analysis in the Commission’s ‘Users’ Report<sup>70</sup>, which assesses the impact of existing relevant national legislation, reveals **a diverse legal landscape within the EU<sup>71</sup> and notes that national law fails to effectively contribute to discourage demand for services, which are the objects of exploitation of trafficking in human beings.**

A **new question in the Commission data collection exercise** was to ask member states for information on the police contacts, prosecutions and convictions related to the criminalisation of the users of services exacted from victims. These may be users of services provided by victims of trafficking for sexual or labour exploitation or other forms.

Member States have reported mainly on measures related to trafficking for sexual and labour exploitation.

**Three Member States provided data on this offence: Italy, Romania and Finland.** In 2015-2016, 2 suspects (persons brought into formal contact with the authorities), 135 prosecutions, and 18 convictions were made in the EU concerning the use of services, which are the objects of trafficking in human beings.

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<sup>69</sup> [https://frontex.europa.eu/assets/Publications/Risk\\_Analysis/Risk\\_Analysis/Risk\\_Analysis\\_for\\_2018.pdf](https://frontex.europa.eu/assets/Publications/Risk_Analysis/Risk_Analysis/Risk_Analysis_for_2018.pdf)

<sup>70</sup> [http://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/report\\_on\\_impact\\_of\\_national\\_legislation\\_related\\_to\\_thb\\_en.pdf](http://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/report_on_impact_of_national_legislation_related_to_thb_en.pdf)

<sup>71</sup> At the time of the adoption of the Users report, and based on its outcomes, Ten (10) Member States reported having existing national law establishing as a criminal offence the use of services which are the objects of exploitation of trafficking in human beings (BG, EL, HR, CY, LT, MT, PT, RO, SI, UK), addressing all forms of exploitation. Fourteen (14) Member States reported having no explicit national legal provisions in place for establishing as a criminal offence the use of services which are the objects of all forms of exploitation of victims of trafficking in human beings (AT, BE, CZ, DE, EE, ES, FR, HU, IT, LV, LU, NL, PL, SK). However, some Member States (FI, IE, SE) have instituted legislation targeting the use of victims of trafficking but only in respect to particular forms of exploitation.

**Enforcing the law has a preventive effect**, as Eurojust states in its contribution for the progress report its support to Member States in investigating and prosecuting trafficking cases, and thus assisting them in holding the perpetrators accountable, increases both general and specific deterrence and thus constitutes an element of prevention.

#### **2017 Communication Deliverables**

As per the 2017 Communication, the **Commission will further encourage those EU Member States, to the extent they have not done so, to criminalise those knowingly using services of victims of trafficking.**

As noted in the Commission first progress report, **such form of criminalisation, though with a specific and narrower scope, has already been introduced and implemented in another EU legal instrument, the Employers' Sanctions Directive**, which has established that Member States must impose criminal sanctions on employers, who use the work or services of illegally staying third-country nationals in the knowledge that they are victims of trafficking. In addition, the **Child Sexual Abuse Directive obliges Member States to criminalise engaging in sexual activity with a child where recourse is made to child prostitution and to provide for minimum levels of imprisonment penalties depending on the age of the child, thus targeting the client of children in prostitution.** This should in turn help indirectly the fight against child trafficking for sexual exploitation, as national authorities do not need to prove the existence of the different components in the trafficking offence, nor the awareness of the client about the trafficking condition of the victim.

The report by RO stresses that in absence of measures for discouraging demand organised criminal groups demonstrate flexibility and turn into new destinations for sex markets with higher demand, rendering investigations less effective. The Italian report notes that a legislative amendment to this regard would be an important step forward in the fight against trafficking, as it would discourage and reduce demand.

**Specifically on trafficking for sexual exploitation**, some Member States reported on new legislation enacted during the reference period on criminalising or associated with those who knowingly use services extracted by victims of trafficking (e.g. CY, DE, EE, IE). Some of these Member States note that it is generally too early to assess impact of such measures. Other Member States (e.g. AT, NL) fully support the aim of Article 18 of the anti-trafficking directive on prevention, including by discouraging demand, but consider that non-legislative measures, such as the provision of information and training, raising awareness and commissioning research can be very effective in this regard. The difficulty in proving the element of knowledge that the services were provided by victims of trafficking (e.g. AT, IT) is stated.

Germany reports on the Prostitute Protection Act in force since 1 July 2017, introducing regulations on contracts between prostitutes and operators of a brothel or an escort agency, which aims at contributing to better preventing exploitation and trafficking in human beings. In particular, the introduction of an official licensing obligation for the operation of a prostitution establishment and the recording and documentation requirements, as well as the extensive control of the authorities, should prevent and restrict crime in prostitution, such as trafficking in human beings and forced prostitution. Furthermore, DE makes reference to a new law amending the Federal Central Register Act (Bundeszentralregister Act) and the

Eighth Book of the Social Code, on the one hand, which contain a provision on the criminalisation of users of sexual services of victims of trafficking.

France reports on the Act of 13 April 2016, which has strengthened the fight against the prostitution system and supports persons in prostitution. This law introduced penalisation of purchasing sexual acts provided by an adult. Furthermore, where the victim is a minor or vulnerable person, the offence of purchasing sexual act is more severely punishable. The purpose of these measures is to reduce demand, to prevent prostitution, trafficking in human being and 'proxenetism' (pandering) and thus make the French territory less attractive for pimps and networks. The law extends protection and rights of victims of trafficking in human beings and prostitution, putting in place measures to support them exiting prostitution, including setting up an ad hoc departmental commission for this purpose. Further, the law intends to strengthen the work against trafficking networks, as internet suppliers have to signal sites proposing paid sexual services.

Ireland reports on the new Criminal Law (Sexual Offences) Act 2017, which is the most comprehensive and wide ranging piece of sexual offences legislation introduced in Ireland in almost a decade. Part 4 of the Act provides for two new offences of purchasing sexual services, in the context of prostitution and is linked to demand that fosters trafficking for sexual exploitation. The Act itself and its provisions, recognise the exploitation experienced by those involved in prostitution and decriminalises them. It enacts a more serious offence of paying for sexual activity with a trafficked person, in the context of prostitution, an offence which carries a potential penalty of up to 5 years' imprisonment and/or a fine. In both cases, the person selling or, in the case of a trafficked or exploited person being forced to sell, the sexual service will not commit an offence. Of note, Section 27 of Part 4 requires a report after 3 years on the number of arrests during that period in respect of the new offences, as well as an assessment of the impact of the offences on those who provide sexual services for payment. According to the IE report, three years is the minimum period in which systems and practices can be effectively bedded down and operated, so that reliable conclusions can be drawn from the information gathered for the review.

In this context, another example is Greece, where a Committee against Commercial Sexual Exploitation in April 2017 was established. The General Secretariat for Gender Equality, in cooperation with the Office of the National Rapporteur, has set up a Committee of Experts to review the existing legal framework on prostitution and advocate against sexual exploitation and demand for commercial sex acts. The Committee includes legal experts, academics, the anti-trafficking police unit and representatives from NGOs. The overall task of the Committee is to examine closely best practices aimed at targeting buying and selling of sexual services and put forward specific proposals for applying these practices in Greece.

The Netherlands further reports that during the reference period a bill has been introduced in Parliament that aims to allow police officers to pretend to be adolescents on the internet. This should make it possible for them to catch those who try to groom children before they are able to sexually abuse these children or to exploit them in forced prostitution. Furthermore, NL informs that in 2015 the Public Prosecution Service increased the priority on the prosecution of customers paying for sex with a minor. In June 2015, the Directive for Sentence Recommendations regarding article 248b Criminal Code of the Public Prosecution Service came into force, which formulates guidelines for the prosecution of these customers.



Subsequently, some prosecutions of clients of minors (under art. 248b Criminal Code) have led to a lot of publicity because of the active press policy by the Public Prosecution Service<sup>72</sup>.

### **GRETA on the criminalisation of the use of services**

GRETA<sup>73</sup> stresses that the criminalisation of the use of services which are the object of exploitation as defined in Article 4 of the Convention, with the knowledge that the person is a victim of trafficking in human beings, can have a normative effect and increase public awareness of human trafficking issues, in addition to having a punitive function. GRETA<sup>74</sup> further notes that the majority of the 25 Parties to the Convention so far evaluated under the second evaluation round have adopted provisions criminalising the use of the services of victims of trafficking, with the knowledge that the person is a victim. However, there have been very few related convictions.

Taking into consideration the country reports on EU Member States published by GRETA in the period after the adoption of the Commission's first progress report, GRETA encouraged national authorities to establish such criminal offence in all those cases where national legislation does not criminalise the use of services with the knowledge that the person is a victim of trafficking, and encouraged to extend the provision to cover all forms of exploitation in those case in which such provision exists limited to specific forms. This is the case of the country reports on Belgium France, Ireland, Poland, Spain, and Sweden. For those Member States in which such provisions exists, but limited or no information was available on implementation, GRETA encouraged to ensure they are applied, such as in the case of Latvia, Malta, Portugal, Slovenia. In two cases, further information was provided on implementation regarding Bulgaria, and Romania.<sup>75</sup>

Various Member States reported on action to address **impunity for users of victims of trafficking for labour exploitation**. Pertaining to trafficking for labour exploitation, IT reports on the Law No. 199 of 29 October 2016, on the so-called "caporalato", which addresses labour exploitation. The Law provides for serious sanctions (1 to 6 years imprisonment and a fine of 500 to 1000 Euros for each exploited worker) for any person recruiting, using, hiring or employing the workforce in conditions of exploitation. It establishes aggravating circumstances, if the offence is committed with violence or threats, when the number of exploited workers is more than three, when the victims are minors not of working age, when the workers are exposed to serious dangers for their health. The Law also

<sup>72</sup> From 2000 - 2014, there were 46 prosecutions under article 248b Criminal Code and 31 convictions under article 248b Criminal Code. From January - September 2015, there were 47 prosecutions under article 248b Criminal Code and 30 convictions under article 248b Criminal Code.

<sup>73</sup> <https://rm.coe.int/greta-2018-1-7gr-en/16807af20e>

<sup>74</sup> Ibid.

<sup>75</sup> For more details please check each referred country reports: <https://rm.coe.int/greta-2017-26-frg-bel-en/1680782ae0>; <https://rm.coe.int/greta-2017-17-fgr-fra-en/16807454bf>; <https://rm.coe.int/greta-2017-28-fgr-irl-en/168074b426>; <https://rm.coe.int/greta-2017-29-fgr-pol-en/168077c9ce>; <https://rm.coe.int/greta-2018-7-frg-esp-en/16808b51e0>; <https://rm.coe.int/greta-2018-8-fgr-swe-en/16808b1cd7>; <https://rm.coe.int/greta-2017-2-fgr-lva-w-cmts-en/1680782ac0>; <https://rm.coe.int/greta-2017-3-fgr-mlt-en-w-cmts/1680782abd>; <https://rm.coe.int/16806fe673>; <https://rm.coe.int/greta-2017-38-fgr-svn-en/168078919e>; <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680630d6c> and <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806a99b1>

contains indicators to detect labour exploitation, with respect to very low wages, excessive working hours, lack of rest, poor health conditions, and degrading conditions).

With respect to addressing forced labour, PT reported that the Labour Code has been amended in 2016, extending the scope of the provisions on liability for relevant violations to include a broader range of entities, which are also liable for breaches committed by, as an example, subcontractors.

EL further reports on joint special operations to detect victims and uncover traffickers, between the Greek Labour Inspectorate (SEPE) and the Greek Police aimed at combating trafficking in human beings for labour exploitation within the framework of joint actions. Audits were carried out in 206 companies and agricultural fields, with the total audited workers reaching 1,152. Forty-six (46) undeclared workers were identified, while 148 employees were found to be employed on a different timetable than what was declared to SEPE. SEPE imposed the appropriate administrative penalties for specific violations of labour law. EL further reports on the so-called “Manolada case” (Chowdury and others v. Greece, 30 February 2017), where Greece was found in violation of Article 4, par. 2 (prohibition of forced labour) of the European Convention on Human Rights, for not providing adequate protection to the application. According to the EL report, competent State agencies study challenges and opportunities for improvements both in the institutional framework and in the procedures, so to prevent future violations of the Convention for Human Rights

Another practice comes from SK, where the National Labour Inspectorate issued a Methodological Guideline in 2015 governing the process of performance of labour inspections as a supervision over the compliance with legal regulations regulating the prohibition of illegal work and illegal employment. The Methodological Guideline contains indicators of the forced labour, which labour inspectors are obliged to observe in the course of the inspection. In the case of a trafficking suspicion, labour inspectorates are required to report the facts to the law enforcement authorities.

#### **Civil society concerns on impunity for those who use the services of victims of trafficking**

In Member States that have criminalised the use of services of victims of trafficking for sexual exploitation, civil society reports concerns on the implementation of such laws. They report that investigations remain scarce and that generally the issue is not prioritised. In other instances where such legislative framework is rather recent, civil society is eager to see how the future will develop, and the efforts that will be put on implementation.

In Member States where no such criminalisation exists, civil society reports that this results in fostering a culture of impunity for those who abuse victims and to the normalisation of violence, especially against women and girls, since this crime has a strong gender specificity. Civil society notes that in absence of criminalisation of those who use the sexual services of victims of trafficking, the onus is placed on the victims, who are those treated as criminals and at times at the expense of their privacy. Civil society asks for a comprehensive approach that places the principle of equality at its core.

While considering a step in the right direction the move towards criminalising those who knowingly use the services provided by victims of trafficking, civil society expresses concerns that the requirement of knowledge make its application more difficult, and call for considering options that would render more effective the criminalisation of users and abusers, especially of child victims.

## **5.2. Increasing accountability and results through effective investigations and prosecutions**

In 2015 and 2016 Member States reported **7503 people having formal contact with the police or criminal justice systems** in connection to the crime of trafficking in human beings within the EU. Member States reported **5979 prosecutions and 2927 convictions within the EU**. Every year Europol receives a growing number of new cases on trafficking in human beings and contributions from its partners. For the period 2016-2017, 2476 new cases and 8411 new operational messages were referred to Europol, while Europol registered 10449 suspects and 10664 victims or potential victims.<sup>76</sup>

As highlighted in its first progress report, increasing the number of investigations and prosecutions is one of the key priorities of the EU legal and policy framework addressing trafficking in human beings. The **level of prosecutions and convictions remains worryingly low**. In this respect, UNODC notes in its Global Report 2016 that while there is a solid legislative progress in criminalisation of trafficking in human beings, there are still very few convictions.

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**.

This is attributed to the extremely complex nature of such investigations. This inability to produce evidence results in some cases in bringing charges against offenders on other crimes such as money laundering or prostitution related offences. Member States further note that often the chain of organised criminal groups spreads outside national borders and that those who are found on national territory are usually the lower parts of the chain, thus there is a need for international cooperation in investigations and building cases.

Particular challenges were also noted in the context of trafficking for forced criminality, especially drug cultivation. Since such cases involve often evidence of serious offences contrary to anti-drug legislations, it is important that guidelines and recommendations are available by the prosecutorial authorities for ensuring awareness of trafficking indicators and respect of the principle of non-punishment of victims.

Member States reported less on measures related to child sensitive investigations. However, NL reports that in April 2016, a new working method was developed, which focuses on multidisciplinary risk assessment for unaccompanied minors in protected shelter. The team comprises state authorities and civil society. The goal of this risk assessment is to determine if the minor can be expected to file a complaint, cooperate with an investigation, or is able to tell his or her story. The multidisciplinary risk analysis, is also an instrument to determine what kind of help, care, shelter, the minor needs. Furthermore, the results of the analysis can (potentially) function as evidence in the immigration and criminal procedures.

Sweden informs that the government has commissioned the County Administrative Board of Stockholm (CABS) to carry out a systematic examination of all police reports of suspected trafficking of children in 2015–2016, and to subsequently carry out an in-depth study of about

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<sup>76</sup> Europol published graphic: <https://twitter.com/Europol/status/920552532656582657>

ten selected cases. The main purpose of this examination is to attempt to identify why so few preliminary investigations into suspected trafficking result in prosecution, and to identify which parts of the process can and should in particular be strengthened.

An example related to alleviating the excessive burden placed on victims comes from the UK where the vulnerable persons' team of the National Crime Agency supports victims to ensure their needs are met and they do not become re-victimised once an investigation is complete. The team helps prepare victims to give evidence at court, and works closely with the Crown Prosecution Service to ensure sufficient evidence is obtained to launch victimless prosecutions, where necessary. Victimless prosecutions are evidence-based prosecutions and refer to a collection of techniques utilised by prosecutors to convict perpetrators without the co-operation of an alleged victim. The Crown Prosecution Service notes that victimless prosecutions will usually be dependent on proactive investigation commenced by the law enforcement agencies<sup>77</sup>. It further stresses that 'if a victimless prosecution is contemplated, joint working between the police and prosecutors is vital to consider an early investigative/prosecution strategy and how a case can be built without the complainant's active participation'<sup>78</sup>.

#### **Civil Society concerns on investigations and prosecutions**

Civil society submissions stress that investigations and prosecutions of trafficking for sexual exploitation are not prioritised.

Some reports observe a general lack of resources put in investigations on trafficking, as well as a lack of proactive investigations, which results in excessive burden on victims to provide evidence. On the latter point, civil society submissions are unequivocally stressing that currently there is an excessive burden placed on victims and their testimonies, which could have been averted by using special and intelligence led investigations. Civil society also refers to excessive lengths of criminal proceedings, which dissuade victims from cooperating with the judiciary against traffickers.

They note mis-qualification of the crime from trafficking related offences to offences related to prostitution or labour related offences, with lower evidentiary thresholds, thus resulting in lenient penalties for the perpetrators and, importantly, preventing victims from accessing the rights they are entitled to. In this respect, some civil society submissions also point out to the mis-qualification of offences related to trafficking for forced marriage, with offences related only to domestic violence.

Civil society emphasises that these tendencies are due to a number of factors, including persisting limited expertise or awareness of relevant actors on the phenomenon and legislation. They also stress that this reflects a culture of normalisation of the crime, in particular in cases of trafficking for sexual exploitation in the prostitution sector, as well as for trafficking for forced criminality and forced begging. In turn, this also hinders the identification of victims.

#### **5.2.1. Financial investigations**

The 2017 Communication has identified intensifying investigations and prosecutions and facilitating proactive financial and intelligence-led investigations, asset recovery, freezing and

<sup>77</sup> The CPS response to the Modern Slavery Act 2015, Crown Prosecution Service, December 2017.

<sup>78</sup> Ibid.

confiscation of profits, as means to **breaking the business model of traffickers**. An increasing number of Member States report that **financial investigations form part of trafficking investigations; measures are taken for improving their effectiveness, and these are useful tools for restitution of victims' losses** (e.g. AT, BE, CZ, DE, EE, ES, HU, IT, NL, RO, PT). Some (e.g. CZ, LT) reports in addition that offenders operated largely via cash transactions.

Law enforcement authorities of Member States can already seek the assistance, which their national **FIUs** can provide to them. According to Article 32 (4) of the Anti-money Laundering Directive (AMLD)<sup>79</sup> in force, “FIUs shall be able to respond to requests for information by competent authorities in their respective Member States when such requests for information are motivated by concerns relating to money laundering, associated predicate offences or terrorist financing”. A recent legislative initiative by the European Commission on the use of financial and other information for the prevention, detection, investigation or prosecution of certain criminal offences<sup>80</sup> proposed to extend the scope of the cases in which FIUs have to share financial information with law enforcement authorities to serious criminal offences, including the trafficking in human beings. It also aims to enhance the cooperation between FIUs and law enforcement authorities, particularly in recognition of the usefulness of financial investigations in fighting serious crime.

The **Council of the European Union adopted a set of Council Conclusions and an action plan on financial investigation on 9 June 2016**. The Council Conclusions do not explicitly refer to trafficking in human beings but cover all forms of organised crime. It includes an Annex with an action plan, with a lot of useful information. The said conclusions underline the need to use financial investigation as a standard when dealing with organised crime and terrorism from the very start of a criminal investigation mobilising multidisciplinary cooperation.

Europol informs<sup>81</sup> that **organised crime groups involved in trafficking in human beings have successfully combined illicit practices with strong business and technical skills**. This makes them highly profitable, low risk and resilient to law enforcement actions. Such groups tend to work independently from other groups and launder their own criminal proceeds with little use of experts. Furthermore, Europol notes<sup>82</sup> that organised crime groups augmented their use of cash to send money back to their countries of origin, as an alternative to increasingly controlled banking systems and that Financial institutions, Money Service Businesses (MSBs) and other types of financial institutions are most at risk to be exploited by the money laundering activities of such groups. In this respect, **Legal Business Structures (LBS) - either owned outright by such groups or unwittingly infiltrated can be used as a way to launder the proceeds of trafficking activities**. The registers of beneficial ownership of companies, trusts and other legal arrangements that are being set up by Member States

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<sup>79</sup> Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC, OJ L 141, 5.6.2015, p. 73–117. The latest amendment to this Directive by Directive (EU) 2018/843 left this provision unaltered.

<sup>80</sup> COM(2018) 213 final.

<sup>81</sup> Europol, Financial Business Model of Trafficking in Human Beings (2015), <https://www.europol.europa.eu/publications-documents/trafficking-in-human-beings-financial-business-model>

<sup>82</sup> Ibid.

under the AMLD will prove to be a key tool in the hands of law enforcement in identifying who is really behind certain business.

Eurojust<sup>83</sup> reports that in relation to financial investigations, the analysis of the 28 trafficking in human beings cases indicates that **in 21 cases (75%) financial investigations were discussed in the framework of coordination meetings**. Issues addressed were parallel money laundering investigations, following the money flows, the identification of criminal assets, the freezing of bank accounts, legal requirements concerning asset recovery and the confiscation of the proceeds of crime (such as real estate, luxury goods, cars). Proactive financial investigations to seize and recover criminal assets and for taking actions against money laundering are crucial for weakening the criminal networks involved in trafficking in human beings.

Member States also report on the challenges and difficulties associated with financial investigations and tracking the money flows. For example, Eurojust<sup>84</sup> reports that in one case, the national authorities faced difficulties in following the money flow, since the proceeds of the crime were channelled through the Hawala banking system (with the participation of at least two intermediaries). In addition, most of the proceeds were laundered through non-EU Member States. In this case, Eurojust's operational support (in particular through the various analytical reports prepared by the Case Analysis Unit) highlighted the potential links between several of the trafficked victims, the (Western Union and MoneyGram) payments and phone calls made by their family members to the traffickers and the top echelons of the OCG.

Member States also link financial investigations with other type of control measures. With particular reference to trafficking for labour exploitation, DE reports that financial control of undeclared work, as part of its mission, supports the identification of victims of trafficking but more work remains to be done for raising awareness within competent services. In Italy, the Guardia di Finanza performs inspections on undeclared and irregular work with a view of identifying exploitation and associated illegal activities, such as tax evasion, social security fraud, production and trade in counterfeited trademarked goods. In this respect, the relevant operational plan does not only focus on tax recovery but also on assets and wealth accumulated by criminals. This goal is pursued through multiple levels of intervention during corporate and self-employment companies' tax audits.

**The critical importance of financial investigations has been recognized in the context of the work of Europol and more broadly, in the context of the EU Policy Cycle.** Combatting criminal finances and money laundering and facilitate asset recovery in view of effectively confiscating the criminal profits of organised crime groups is not only a specific priority for the EU Policy Cycle 2018-21, **but it must also be implemented as a common horizontal strategic goal through the strategic and operational work for all other relevant crime priorities, including trafficking in human beings.**<sup>85</sup> Furthermore, CEPOL has delivered targeted trainings and webinars for law enforcement and offered a specialised course on financial investigations and asset recovery in trafficking cases. Nonetheless, further efforts are necessary to make full use of financial investigations and implement it as a

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<sup>83</sup> [http://www.eurojust.europa.eu/doclibrary/Eurojust-framework/Casework/Implementation of the Eurojust Action Plan against Trafficking in Human Beings 2012-2016 - Final evaluation report \(January 2017\)/2017-01-31-THB-2012-2016\\_EN.pdf](http://www.eurojust.europa.eu/doclibrary/Eurojust-framework/Casework/Implementation%20of%20the%20Eurojust%20Action%20Plan%20against%20Trafficking%20in%20Human%20Beings%202012-2016%20-%20Final%20evaluation%20report%20(January%202017)/2017-01-31-THB-2012-2016_EN.pdf).

<sup>84</sup> Ibid.

<sup>85</sup> Council conclusions on setting the EU's priorities for the fight against organised and serious international crime between 2018 and 2021 at <http://data.consilium.europa.eu/doc/document/ST-8654-2017-INIT/en/pdf>

standard investigation practise, especially regarding its potential to map criminal organisations.

As also noted in the first progress report, **following the money is a key priority for the EU legal and policy framework addressing trafficking in human beings**. It is vital that Member States ensure application of Art. 9 of the Anti-Trafficking Directive providing that Member States shall take all the necessary measures to ensure that effective investigative tools are available to investigation and prosecution authorities; and that investigation and prosecution should not be dependent on reporting or accusation by the victims. There is a plethora of tools developed and now it is time for implementation.

### **2017 Communication Deliverables**

#### **Enhanced Cooperation with the Association of Law Enforcement Forensic Accountants (ALEFA)**

ALEFA<sup>86</sup> was established to develop the quality and reach of forensic accountancy throughout law enforcement agencies in order to better assist the Courts, victims, witnesses, suspects, defendants and their legal representatives in relation to alleged fraud, fiscal, financial and serious organised crime. There is added-value in that membership of the group will improve cross-border and inter-agency cooperation as well as information exchange, within and outside the European Union. This association is supported with co-financing by the Prevention of and Fight against Crime Programme of the European Union.

### **5.2.2. Freezing, seizing and confiscation of proceeds of crime**

Only few Member States have provided information on the total value of assets confiscated from the trafficker convicted (e.g. CZ, UK) and Member States acknowledge the difficulty to extract data on confiscated property. Based on Article 11 of Directive 2014/42/EU<sup>87</sup> the Commission is receiving data on the number of freezing and confiscation orders and the value of the assets frozen or confiscated in each Member State. This information will nevertheless be general and not differentiate between assets frozen or confiscated on the basis of different types of crime.

**Using the proceeds of crime for satisfying the claims of victims** were referred by Member States (e.g. AT, DE, IT, LV). Pertaining to freezing, seizing and confiscation of proceeds of crime, **Member States also report improvements and increased use thereof. Member States report increased awareness by the judicial and prosecutorial authorities**, which has resulted in an increase on the number of criminal investigations concerning the freezing and confiscation of proceeds of crime, especially in cases of trafficking for sexual and labour exploitation.

In Austria, as of January 2015, it has been possible to not only seize and confiscate the victim's property in possession of the perpetrator, but also e.g. the bank deposit of the suspect in order to satisfy the victim's claims for damages during legal proceedings. According to civil society, this has already led to improvements in practice. Furthermore, as of June 2016, an enforced collection from the convicted person is possible not only regarding the forfeiture of the monetary equivalent of the assets acquired for or through an offence, including any benefits and replacement value of such assets, but also regarding the confiscation, which

<sup>86</sup> <http://www.alefa.eu>

<sup>87</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32014L0042>

includes any item yielded from an intentional offence. IT also reports that following convictions of perpetrators proceeds are channelled to the Anti-trafficking Fund, which covers support programmes and compensation of victims.

LV reports on the “Law on Execution of Confiscation of Criminally Acquired Property”, which aims at ensuring an efficient execution of confiscation of criminally acquired property by satisfying the claims of victims, which are substantiated by enforcement documents submitted to the record-keeping of a sworn bailiff. According to the Law, a half of the confiscated proceeds from crime transferred to the State Budget, but not more than two million euro in a financial year, shall be transferred to a separate budget programme of the Ministry of Justice in order to implement the required measures for combating financial and economic crimes and providing support to crime victims. DE also reports on a law on the reform of the criminal asset recovery, which entered into force in July 2017, according to which, in the future, income from trafficking related criminal acts will also be recovered for the benefit of the victims. Furthermore, the Law on Organised Crime and Terrorism introduces a new mitigation tool, whereby assets may be recovered from criminal activities without the need to prove a specific crime and may be used in cases where trafficking in human beings is concerned.

#### **National Agency for the Management of Seized Assets in Romania**

GRETA report on Romania refers to the Law No. 318/2015 on the Establishment, Organisation and Functioning of the **National Agency for the Management of Seized Assets (ANABI)**. The aim of ANABI is to ensure an increase of the execution rate of the confiscation orders issued in criminal matters, through an efficient management of seized assets that are distributed to the Agency by prosecutors and judges. The Agency is tasked to: a) facilitate the tracing and identification of proceeds from, and other property related to crime that could be subject to freezing, seizure or confiscation orders issued by a competent judicial authority during criminal proceedings; b) secure management, in the cases specified by this law, of movable assets seized in criminal proceedings; c) sale, in the cases established by law, movable assets subject to seizure in criminal proceedings; d) manage the national integrated electronic system of criminal assets; e) support, under the law, judicial authorities in making use to the best available practices field of identification and management of assets that may be subject to freezing and confiscation measures in criminal proceedings; f) coordinate, assess and monitor at national level the application and observance of the legal procedures in the field of recovery of proceeds of crime.

According to the Commission Communication ‘On Progress in Romania under the Co-operation and Verification Mechanism’,<sup>88</sup> ANABI is now fully operational. The Agency published its first annual report in February 2017 and with the help of the fiscal administration, was able to pin down the total sums of money resulting from the selling of confiscated assets in 2016 (about EUR 5 million), part of which is to be redistributed for social and public re-use. The first call for proposals will be launched in 2018. The January 2017 report highlighted that the Agency should eventually contribute to increase the proportion of assets effectively recovered. This work is already under way, with the collection of data from all courts and with the launch of a project to keep track of all relevant court decisions in relation to confiscation of criminal assets, linked with the execution database from the fiscal administration. This project should be complete by the end of 2018 and should

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<sup>88</sup> COM(2017) 751 final.



provide a clearer picture, so that appropriate measures can be taken to increase the proportion of assets effectively recovered.

ANABI also exercises the competence of the Asset Recovery Office. From January until the 15 June 2017, the Romanian Asset Recovery Office dealt with 86 incoming requests and 21 outgoing requests. The Member States most frequently requesting information were France, the United Kingdom, Italy, Germany and Spain and ANABI sent the largest number of requests to Hungary, Italy, Austria and France. ANABI also dealt with several international confiscation orders.

Generally, it remains to be seen at a later stage, what percentage of the proceeds identified through financial investigations were actually detected and seized and to what extent they were used for supporting victims, which in itself entails difficulty. It should be noted that civil society organisations in their submissions call for systematic use of financial investigation and using the proceeds of crime for compensating and assisting the victims.

### **New Financial Action Task Force (FATF) and Asia/Pacific Group on Money Laundering (APG) report**

On 2 August 2018 a new Financial Action Task Force (FATF) and Asia/Pacific Group on Money Laundering (APG) report<sup>89</sup> was published to raise awareness about the type of financial information that can identify trafficking for sexual exploitation or forced labour and to raise awareness about the potential for profit-generation from organ trafficking. The report also highlights potential links between trafficking and terrorist financing.

The Financial Action Task Force (FATF) and the Asia/Pacific Group on Money Laundering (APG) jointly undertook this study to improve global understanding of the financial flows associated with the crime of trafficking, both as a money-laundering predicate and potential source of terrorist financing. This study updates the FATF's 2011 report. This study has brought granularity to indicators of suspected money laundering of the proceeds of trafficking by separating trafficking into three categories in line with the Palermo Protocol: trafficking for forced labour, sexual exploitation or for the removal of organs. The project team found that the proceeds from each of these types of exploitation are realised in a different manner and required different laundering mechanisms. In addition, each of these three types of exploitation could be better understood and detected through the financial activities of the various actors and/or roles involved to conduct each of the three types of exploitation. The report also provides a more precise set of global money laundering indicators for use by reporting entities, financial intelligence units and other national authorities.

This study also identifies the challenges national authorities frequently face in detecting, investigating and prosecuting money laundering and terrorist financing from trafficking. The study identifies good practices, and in particular the two primary good practices, to mitigate some of these challenges: a. Assess the diverse money laundering risks from trafficking, share with stakeholders and ensure that they're understood and b. Leverage expertise, capabilities and information through partnerships between the public sector, private sector, civil society and non-profit organisation communities.

<sup>89</sup> See the executive summary at <http://www.fatf-gafi.org/media/fatf/content/images/Human-Trafficking-Executive-Summary.pdf>, and the full report at <http://www.fatf-gafi.org/media/fatf/content/images/Human-Trafficking-2018.pdf>

The increasing involvement of the EU Asset Recovery Offices in tracing the proceeds of crime are noted too. As the proceeds of trafficking are often transferred to third countries, it would be important to increasingly involve the relevant networks, such as the Camden Assets Recovery Inter-agency Network (CARIN), an informal network of law enforcement agencies who share knowledge and information on how to trace assets in a member's country. The framework for international cooperation of FIUs, both within and beyond the EU, can also be of help for law enforcement authorities in the tracing of proceeds connected to trafficking in human beings. Within the EU, Article 53(1) of the AMLD provides a legal basis for the FIU-to-FIU exchange of financial information, whereas at the global level the "Egmont Group", a cooperation network of 155 Financial Intelligence Units provides a platform for the secure exchange of expertise and financial intelligence to combat money laundering and terrorist financing.

#### **The Camden Assets Recovery Inter-agency Network (CARIN)**

CARIN is a network of operational law enforcement and judicial contact points which, together with its regional networks, covers 153 countries and jurisdictions and has the ultimate objective of achieving a global reach. CARIN is affiliated with six regional networks of asset recovery practitioners, including Eastern Africa (ARIN EA), Western Africa (ARIN WA), Southern Africa (ARIN SA), South America (RRAG), the Caribbean region (ARIN CARIB) and the Asia-Pacific region (ARIN AP). Each of these networks provides for the establishment of law enforcement and judicial operational contact points in each Member country. The practice has repeatedly demonstrated the effectiveness of the informal exchanges between CARIN contact points, which are able to exchange information on assets and on legal issues (for example mutual legal assistance requests) without cumbersome procedures.

Eurojust notes<sup>90</sup> that out of the 28 trafficking in human beings cases analysed by the trafficking in human beings Project Team, 16 saw asset recovery being discussed in the framework of coordination meetings. The majority of those cases were still ongoing at the time of the analysis. However, at least two of these cases resulted in actual confiscations, including the confiscation of property amounting to 4 452 625 DKK (approx. 598 655 Euro). In one case the decision was taken at an early stage of the judicial cooperation as a special clause was included in the Joint Investigation Team agreement.

#### **5.2.3. Joint Actions**

EU agencies and Member States report increasingly on cross-border cooperation and joint investigations. Eurojust<sup>91</sup> casework reveals a better understanding of trafficking specifics by practitioners, **a higher level of coordination, which, in turn, translates to a larger number of Joint Investigation Teams (JITs) being setup**, as 75 % of the analysed trafficking in human beings cases with a coordination meeting at Eurojust in 2014-2015 translated into a **joint investigation team. Joint investigation teams were increasingly set up with non-EU countries, especially the Western Balkans** and namely Bosnia and Herzegovina. An increasing number of trafficking in human beings cases are addressed by Eurojust.

<sup>90</sup> [http://www.eurojust.europa.eu/doclibrary/Eurojust-framework/Casework/Implementation of the Eurojust Action Plan against Trafficking in Human Beings 2012-2016 - Final evaluation report \(January 2017\)/2017-01-31-THB-2012-2016\\_EN.pdf](http://www.eurojust.europa.eu/doclibrary/Eurojust-framework/Casework/Implementation%20of%20the%20Eurojust%20Action%20Plan%20against%20Trafficking%20in%20Human%20Beings%202012-2016%20-%20Final%20evaluation%20report%20(January%202017)/2017-01-31-THB-2012-2016_EN.pdf).

<sup>91</sup> [http://www.eurojust.europa.eu/doclibrary/Eurojust-framework/Casework/Implementation of the Eurojust Action Plan against Trafficking in Human Beings 2012-2016 - Final evaluation report \(January 2017\)/2017-01-31-THB-2012-2016\\_EN.pdf](http://www.eurojust.europa.eu/doclibrary/Eurojust-framework/Casework/Implementation%20of%20the%20Eurojust%20Action%20Plan%20against%20Trafficking%20in%20Human%20Beings%202012-2016%20-%20Final%20evaluation%20report%20(January%202017)/2017-01-31-THB-2012-2016_EN.pdf).

Eurojust' in its 2017 Annual Report on trafficking in human beings observes an increase in cases referred (79 in 2015, 93 in 2016 and 132 in 2017); as well as in crime related coordination meetings (32 in 2015, 33 in 2016 and 57 in 2017), and in JITs on cases of (21 in 2015, 32 in 2016 and 51 in 2017).<sup>92</sup> In 2017, based on Eurojust casework, the most requesting Member States were RO, UK and BG, while the most requested Member States were RI, DE and UK. The use of JITs also increased: 26 JITs were newly established, totalling 51 active JITs. Thirty-nine (39) JITs received funding from Eurojust. The JITs included non-EU countries such as Norway, Switzerland and Bosnia and Herzegovina.

### **Investigations on Trafficking in Human Beings by the Romanian Authorities**<sup>93</sup>

In April 2016, the Romanian authorities opened an investigation into an international organised crime group (OCG) accused of committing trafficking in human beings for sexual exploitation, pimping and money laundering. Women victims, who showed greater vulnerability due to age, physical or mental disability, or lack of financial resources, working alternatives or family ties, were forced into prostitution in Belgium, the Czech Republic, Germany, Spain, Switzerland and the UK by members of the OCG. The investigation revealed that a substantial amount of money was obtained from the described criminal activities, with the banking transactions managed by the OCG amounting to more than EUR 5 million.

In September 2016, the case was referred to Eurojust to support cooperation with the national authorities of the Member and non-EU countries involved, particularly in the setting up of a JIT and preparation of a joint action day. At the first coordination meeting, in February 2017, the setting up of a JIT was agreed. The JIT agreement was signed in March between Belgium, Romania and the UK, with the participation of the respective National Members. In parallel, Eurojust received, transmitted and facilitated the execution of MLA requests with the Czech Republic, Germany and Switzerland, countries not party to the JIT.

The second coordination meeting in May was used to plan and prepare the joint action day. Further, participants in that meeting, with the support of Eurojust, agreed on the best venue to prosecute.

During the joint action day in June, 71 house searches were carried out in Romania and 20 house searches in Belgium, the Czech Republic, Switzerland and the UK. Large amounts of currency, jewellery, firearms, drugs and electronic equipment were seized. On the same day, 39 suspects were detained in Romania and 3 in the UK, and 40 witnesses were interrogated. In addition, freezing measures on assets amounting to more than EUR 2 million were ordered in Romania. Eurojust provided advice to the national authorities during the joint action day. In this case, Eurojust also provided financial and logistical support to the JIT. Europol contributed to the exchange of information among the involved countries and provided operational support by organising an operational meeting and cross-matching the incoming information.

According to the Europol Review 2016–2017 **‘Every year Europol receives a growing number of new human trafficking cases and contributions from its partners.** In 2016,

<sup>92</sup> Eurojust, 2017 Annual Report, available at: [http://www.eurojust.europa.eu/doclibrary/corporate/eurojust%20Annual%20Reports/Annual%20Report%202017/AR2017\\_EN.pdf](http://www.eurojust.europa.eu/doclibrary/corporate/eurojust%20Annual%20Reports/Annual%20Report%202017/AR2017_EN.pdf).

<sup>93</sup> Ibid.

4669 data contributions were made, corresponding to an increase of 37% compared to figures from the previous year. Based on the information received, in 2016 Europol supported 48 high-profile cross-border operations in the area of trafficking in human beings, corresponding to an increase of 40%. Moreover, Europol organised and facilitated 26 operational meetings and provided on-the-spot assistance on 16 occasions<sup>94</sup>. Europol further reports that in the context of Joint Action Days conducted in 2017, 1191 victims of trafficking in human beings were identified.<sup>95</sup>

#### **Multidisciplinary cooperation and Joint Investigation Teams -13 Oceans**

The Netherlands reports that in this case, about 20 Roma children from Eastern Europe were forced into theft and pick-pocketing. Some of these children were less than ten years old, not going to school, and some of the girls got pregnant at very early age, and child abuse was suspected. The children were moved across Europe and money was taken back to South Eastern Europe, where the criminal networks involved are based. An investigation was started to tackle the criminal networks, gain insight into this phenomenon and, most importantly, safeguard the children. The networks seemed to be based on family ties. In order to break the hold of the criminal networks over the children, the court placed about 10 children under supervision and in closed youth care institutions. However, some of the children managed to run away. The investigation led to the arrest of two persons in Barcelona, Spain. They are suspected of trafficking in human beings, participating in a criminal organisation, using false identities and removing children from legal custody.

In two squalid houses used by the persons arrested, six children were found, including a heavily pregnant 14-year old and a baby. Four of these children had run away from youth care institutions in the Netherlands. All six children were eventually brought back to the Netherlands. The court appointed guardians for all the children and deprived their parents of their parental rights. Returning the children to Eastern Europe was considered too dangerous; it would risk them falling into the hands of the criminal network again. The children now all live either with a foster family or in a youth care institution and are going to school (apart from the ones that are too young). For the children's safety, the parents have not been told where they live.

A Joint Investigation Team was set up with Austria and Bosnia- Herzegovina to investigate this case and cooperation also took place with Spain and Croatia. The Child Care and Protection Board, the Salvation Army, Fier, Nidos, the Royal Netherlands Marechaussee, the Immigration and Naturalisation Service, the Repatriation and Departure Service, the Expertise Centre on Trafficking in Human Beings and People Smuggling and the Ministry of Justice and Security were involved in providing protection and care to the children and bringing them back to the Netherlands.

It is encouraging to see the increase in joint operation and actions and Member States should continue in this vein. The European Commission will continue providing support in this respect in order to foster further cooperation.

#### **5.2.4. Cross border cooperation**

The 2017 Communication states that the Commission will continue to encourage the national authorities and EU agencies to address trafficking as a form of organised crime that does not

<sup>94</sup> Europol, 2017 Consolidated Annual Activity Report p. 42, available at [https://www.europol.europa.eu/sites/default/files/documents/consolidated\\_annual\\_activity\\_report\\_2017.pdf](https://www.europol.europa.eu/sites/default/files/documents/consolidated_annual_activity_report_2017.pdf)

<sup>95</sup> Ibid.

stop at national or EU borders, and cooperate with non-EU countries. Closer cooperation will be promoted for this purpose, comprising capacity building between national authorities, including in non-EU countries, and will be carried out through appropriate networks and with the support of EU agencies.

Member States stress the **need to strengthen international cooperation and coordination between relevant intelligence, law enforcement, prosecutorial and judicial authorities in order to intensify exchange of information and facilitate conducting of investigations**. The current challenges faced by many of the countries of origin render this cooperation more difficult to achieve, even if legislative or operational frameworks are in place. **A lack of experience in cross-border cooperation** has been noted, which could result in offences committed outside the national territories not being investigated. Several national authorities have proceeded to either bilateral cooperation or other channels, such as Europol or Interpol.

#### **EU Policy cycle and the European Multidisciplinary Platform against Criminal Threats**

Across this staff working document, references are made to the **EU Policy cycle and the European Multidisciplinary Platform against Criminal Threats (hereinafter “EMPACT”)**, as the European Union efforts on law enforcement have put special focus on trafficking in human beings<sup>96</sup>. Following the establishment in 2010 of a multi-annual policy cycle with regard to serious international and organised crime, trafficking in human beings has been a priority in all multi-annual policy cycles launched so far: 2011-2013, 2014-2017 and 2018-2021. Policy priorities are adopted by the Council of the EU<sup>97</sup> through Council Conclusions, based on the Serious and Organised Crime Threat Assessment (SOCTA) and the recommendations of the Standing Committee on operational cooperation on internal security (COSI). The multi-annual Policy Cycle aims to tackle the most important threats posed by organised and serious international crime to the EU in a coherent and methodological manner through improving and strengthening co-operation between the relevant services of the Member States, EU institutions and EU agencies as well as third countries and organisations, including the private sector where relevant.<sup>98</sup> The Council conclusions provided for the EU Policy Cycle for organised and serious international crime for the period 2018-2021 to fight against trafficking in human beings in the EU for all forms of exploitation, including sexual and labour exploitation, as well as all forms of child trafficking.

Each of the priorities of the EU Policy Cycle are addressed in the framework of EMPACT<sup>99</sup>. EMPACT is an ad hoc management environment to develop activities in order to achieve pre-set goals. It is a structured multidisciplinary co-operation platform of the relevant Member States, EU institutions and agencies, as well as third countries, international organisations and

<sup>96</sup> For more on this, please visit: <http://www.consilium.europa.eu/en/policies/eu-fight-against-organised-crime-2018-2021>.

<sup>97</sup> <http://data.consilium.europa.eu/doc/document/ST-12095-2013-INIT/en/pdf>, and Council conclusions on setting the EU's priorities for the fight against organised and serious international crime between 2018 and 2021, <http://data.consilium.europa.eu/doc/document/ST-8654-2017-INIT/en/pdf>

<sup>98</sup> <https://www.europol.europa.eu/crime-areas-and-trends/eu-policy-cycle-empact>

<sup>99</sup> EU Policy Cycle Terms of Reference, <http://data.consilium.europa.eu/doc/document/ST-10544-2017-REV-2/en/pdf> Following the adoption of priorities by the Council of the EU, the Commission convenes a meeting of representatives from Member States, the Justice and Home Affairs agencies and EU institutions to draft a four-year multi-annual strategic plan (MASP) (one per priority). The MASP contains a list of general objectives ('strategic goals') that should be achieved during the cycle. These MASPs are approved by the COSI. The MASPs are implemented by Operational Action Plans (OAPs), one per priority and per year. They are drafted by representatives of the participating Member States, EU institutions and agencies. These OAPs are approved by COSI.

other (public and private) partners to address prioritised threats of organised and serious international crime.

As indicated in the First Progress Report, the European Commission continues to work closely with EMPACT Trafficking in Human Beings to provide for synergies between the implementation of the EU legal and policy framework and the operational work of law enforcement authorities, as well as to step up cooperation between civil society organisations and law enforcement authorities in the Member States.

Cooperation agreements with non-EU countries to allow Eurojust to exchange personal data, as well as the appointment of liaison magistrates, including in EU Member States, are mentioned as helpful to support judicial cooperation. It is important to note that the compliance with EU data protection rules is a condition for such agreements to be envisaged.

**The Austrian Joint Operational Office against smuggling and human trafficking (JOO)**

In order to strengthen transnational cooperation, the Joint Operational Office against smuggling and human trafficking (JOO) of the Austrian Criminal Intelligence Service was set up in May 2016 within the framework of the European Multidisciplinary Platform against Criminal Threats (EMPACT-Illegal Immigration). It has a permanent staff of 50 employees and receives EU funding from Europol. The JOO works as an operational focal point for the European Migrant Smuggling Centre (EMSC) of Europol and undertakes joint investigations with law enforcement authorities of other EU Member States and third countries. In its first year of operations, it took part in 23 international investigations and 9 Joint Action Days organized by Europol. It hosted 110 international investigators and received 42 foreign delegations. Furthermore, the JOO held seven training workshops in the areas of trafficking in human beings and smuggling.

Further, the Italian National Anti-Mafia Directorate has tried to develop Protocols to facilitate strategic contacts for international cooperation by encouraging Italian District Prosecuting Offices to make great use of the instrument provided for in Article 34 of the Convention of the Council of Europe and has signed Memoranda and Protocols of Understanding with a number of non-EU countries, such as Libya and Egypt. Another example is PL that has reported on concluding bilateral agreements on mutual legal assistance in criminal matters with Algeria, Belarus, Bosnia and Herzegovina, Canada, China, Egypt, Iraq, Libya, Serbia, the USA, Thailand, Vietnam and the former Yugoslav Republic of Macedonia. UK further reports having worked extensively with the Nigerian Trafficking Agency (NAPTIP) over the last few years. This includes training and mentoring a Joint Border Task Force (JBTF). The JBTF have met returning IOM flights and screened individuals, identifying over 100 potential victims of trafficking, debriefing and safeguarding them to prevent re-trafficking.

Italy further points out that investigations fail to reach the heads of organised criminal networks, residing abroad, and to seize the profits of the crime that are channelled to countries with which it is difficult to implement judicial cooperation. Therefore, often the lowest level of operatives in the chain are the ones punished.

In order to address this complex crime and counter the culture of impunity, following the money throughout the trafficking chain and bringing all perpetrators to justice, enhancing transnational law enforcement and judicial cooperation is of paramount importance.

### **5.2.5. Links of Trafficking in Human Beings with other crimes**

Similar to their reports for the Commission's first progress report, many Member States note that **trafficking in human beings is linked to other crimes**. Trafficking in human beings is a complex phenomenon and a serious organised crime. As traffickers' *modus operandi* is constantly evolving, the EU needs to tackle the links between trafficking in human beings and multiple other crimes.<sup>100</sup> **Member States report links with drug trafficking, document fraud, currency falsification, falsification in general, of credit cards, crimes against property, migrant smuggling, arms and illegal tobacco trafficking**. As mentioned previously, some crimes might also be supporting offences for trafficking in human beings, such as document fraud.

Italy particularly reports that drug traffickers can use the same routes as human traffickers resorting to powerful dinghies or luxurious sailboats, especially during the summer period. Therefore, authorities stress the need for a multidisciplinary approach to disrupt the trafficking chain involving tax authorities, port authorities, maritime police, customs offices, and financial police.

Eurojust<sup>101</sup> final evaluation report of the Action Plan on trafficking in human beings 2012-2016 emphasizes that **multiple crimes are frequently associated with trafficking in human beings**, including: money laundering, forgery of administrative/official documents, drug trafficking; crimes against life, limb or personal freedom. Two associated crime types appear in every year of the action plan (2012-2015), except 2016: illegal immigration, and swindling and fraud. Terrorism was also an associated crime type in connection to two trafficking in human beings cases that were registered in 2015. As a further example, with respect to criminal groups involved in counterfeiting, Europol<sup>102</sup> reports indicate these groups are often poly-criminal and engage in other crime areas, such as trafficking in human beings or drug trafficking.

The **EU Action Plan on Drugs 2017-2020**<sup>103</sup> provides a strengthened response to the newly-emerging health and security challenges in the area of illicit drug use and trafficking. While maintaining and updating the core policy areas and crosscutting themes of the overall EU Drugs Strategy, the new Action Plan identifies new priority areas for action, including evidence gathering on the potential connection between drug trafficking and trafficking in human beings.

### **5.2.6. Special Investigative Techniques and Specific Competences**

Member States report that trafficking in human beings is considered a serious and organised crime, which enables them **to use special investigative techniques**, such as undercover operations, wiretapping, electronic surveillance, delayed execution of orders and warrants, monitoring of bank accounts, seizing assets, DNA exams, financial investigations, control of legal correspondence, control of the content of transmitted data, intelligence sharing with countries of destination, corruption detection, internet traffic interception (such as BE, EE,

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<sup>100</sup> [https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/20171204\\_communication\\_reporting\\_on\\_follow-up\\_to\\_the\\_eu\\_strategy\\_towards\\_the\\_eradication\\_of\\_trafficking\\_in\\_human\\_beings.pdf](https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/20171204_communication_reporting_on_follow-up_to_the_eu_strategy_towards_the_eradication_of_trafficking_in_human_beings.pdf)

<sup>101</sup> [http://www.eurojust.europa.eu/doclibrary/Eurojust-framework/Casework/Implementation\\_of\\_the\\_Eurojust\\_Action\\_Plan\\_against\\_Trafficking\\_in\\_Human\\_Beings\\_2012-2016\\_-\\_Final\\_evaluation\\_report\\_\(January\\_2017\)/2017-01-31-THB-2012-2016\\_EN.pdf](http://www.eurojust.europa.eu/doclibrary/Eurojust-framework/Casework/Implementation_of_the_Eurojust_Action_Plan_against_Trafficking_in_Human_Beings_2012-2016_-_Final_evaluation_report_(January_2017)/2017-01-31-THB-2012-2016_EN.pdf)

<sup>102</sup> <https://www.europol.europa.eu/publications-documents/2017-situation-report-counterfeiting-and-piracy-in-european-union>

<sup>103</sup> <http://www.emcdda.europa.eu/system/files/attachments/5642/eu-action-plan%27-on-drugs-2017-2020.pdf>

HR, IE, IT, LT, LV, PT, RO). However, it should be noted that **the use of encryption technologies raises difficulties for investigative authorities**. Europol databases are reported to be increasingly used for example by RO. Furthermore, in certain jurisdictions, such as FR and UK, authorities charged with labour controls are vested with specific competences related to trafficking in human beings.

#### **Central Office for the fight against Illegal Employment (L'Office central de lutte contre le travail illégal, 'OCLTI') in France**

OCLTI is based within the French Ministry of the Interior and presents a comprehensive inter-ministerial approach on the fight against serious forms of labour exploitation, including trafficking in human beings. Part of its mission is to centralize and analyse criminal intelligence of any origin in order to identify the existence of organized crime networks or nationwide fraud; to coordinate judicial police investigations by assisting and supporting the various bodies of control invested in the fight against illegal work (gendarmerie units or police services), participate in judicial police operations, lead the most complex investigations into illegal work or social fraud and deliver training to investigators of the gendarmerie, the national police and judicial police officers.<sup>104</sup>

### **5.3. Awareness Raising and Training**

Member States have reported on a plethora of initiatives, including **awareness raising actions (for broader public and more targeted), trainings, legislative actions and other types of guidance**. It should be recalled that measures on promoting regular training for officials likely to come in contact with victims constitute legal obligation of Member States as per Art. 18 (3) of the Anti-Trafficking Directive.

Member States have reported on various trainings and awareness raising for a wide range of actors and for diverse aims, including **prevention, improving identification and enhance investigations and prosecutions, also with a focus on cross border cooperation, including for: law enforcement** (e.g. AT, BE, CZ, CY, DE, DK, ES, FR, HU, IE, IT, LV, PL) **the prosecutors and judiciary** (e.g. AT, BE, CZ, DE, ES, HU, FR, LV, PL), **labour inspectors** (for example, AT, FR), **border guards, immigration and consular services and diplomatic staff** (e.g. CZ, DE, HU FR, LV, PL), **asylum officers** (e.g. BE), **frontline professionals** (e.g. IE) **child social and welfare services** (e.g. AT, CZ, HU, IE), **health sector** (e.g. AT, EL, ES), **military, including deployed in non-EU countries** (e.g. IE). Member States also report cooperation with civil society organisations in conducting these trainings. In addition, some referred to the regular opportunities to participate in seminars organised by European institutions, such as the Academy of European Law (ERA) and European Judicial Training Network (EJTN) and on trainings held by Justice and Home Affairs agencies (e.g. CEPOL).

#### **2017 Communication Deliverables**

Workshops of the biannual meetings of the **EU Civil Society Platform** against trafficking in human beings have been dedicated to discussions on the EU-wide awareness-raising campaign on trafficking in human beings, targeting users, consumers, and vulnerable groups and high-risk sectors, in a view to promote exchanges of relevant experiences and encourage participation of all relevant actors at all levels.

<sup>104</sup> <https://www.gendarmerie.interieur.gouv.fr/Notre-institution/Nos-composantes/Au-niveau-central/Les-offices/Office-central-de-lutte-contre-le-travail-illegal-OCLTI>.



Support continues to be provided to projects and initiatives addressing appropriate capacity building and trainings through EU funding instruments, as well as via close cooperation with relevant EU Agencies, including the European Union Agency for Law Enforcement Training (Cepol)<sup>105</sup>, as well as fostering exchanges with other relevant networks and actors such as the European Judicial Training Network or the Association of Law Enforcement Forensic Accountants (ALEFA). The European Commission/EU Anti trafficking Coordinator have participated and contributed to the trainings and also to the planning of judicial trainings (EJTN) in line with the priorities of the 2017 Communication, the evaluation of the 2011 European Judicial Training Strategy<sup>106</sup>, and 2012-2016 EU Strategy.

Civil society underlines **the importance of capacity building, as well as to appropriately train professionals, including in the judiciary.**

Some reports mention **information campaigns carried out in specific domains** (e.g. DK, EE, EL, ES, IE, IT, PL, PT), such as law enforcement authorities (e.g. ES, IE, PL), using a wide range of tools, such as radio and audio-visual materials, social networks, as well as awareness raising campaigns/exhibitions/conferences targeting specific relevant actors, e.g. healthcare professionals to improve identification (e.g. BE, EL, ES) or specific high risk groups to inform on their rights (e.g. BE, DE, PL, PT) or on vulnerable groups, such as children (e.g. PL, PT), and in cooperation with (or carried out by) other relevant actors, such as academia and civil society (e.g. BE, DE, ES, IT, PL, PT), as well as schools (e.g. CY, EL, ES, IT, PL), international organisations (e.g. PL). In implementing these initiatives Member States report cooperation or financing of civil society organisations (e.g. SI).

While reports refer generally to awareness raising campaigns of broader focus, in some cases further information is given on specific initiatives concerning a specific form of exploitation, such as labour exploitation (e.g. PL, PT, EL also report doing so in cooperation with the private sector), sexual exploitation (e.g. ES, IE), forced and early marriages (e.g. SI) and guidelines or codes of conduct, including on sexual exploitation of children in the tourism sector (e.g. PL).

Some reports underline that components of the **campaigns were also focussed on own nationals at high risk of being trafficked** (e.g. PT, PL), or otherwise targeting persons at risk (Roma population) and migrant workers (e.g. SI).

### **The European Employment Service (EURES) Network**

As part of the activities of international mediation in employment and the activities of the EURES<sup>107</sup> network, EURES advisers and others involved in EURES in the Croatian Employment Service are continuing their participation in a number of activities aimed at

<sup>105</sup> See DG HOME/EU Anti-trafficking Coordinator trainings on trafficking in human beings in part 7.3.1.

<sup>106</sup> Communication from the Commission to the European Parliament and the Council on judicial training in the European Union, COM/2006/0356 final, <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:52006DC0356>.

<sup>107</sup> EURES is a cooperation network formed in 1994, comprising the European Commission and members and partners in EU countries, Norway, Iceland, Liechtenstein and Switzerland. The network consists of coordination offices (both European and national) and designated public employment services in each EU country, each with their own specific responsibilities. Other organisations, such as social partners, can join the network. The main goals of EURES are to: 1) improve transparency and information on job opportunities as well as living and working conditions across borders, 2) provide assistance for job placements and recruitment across borders and 3) facilitate cooperation between its member organisations and with stakeholders.

raising awareness on trafficking and the components of exploitation of labour, in order to provide job seekers with timely and accurate information, on the risks associated with seeking employment beyond national borders.

Member States have also reported on **using websites and social networks as avenues of communication** (e.g. EE, ES, IT, IE, LU, PL).

It should be recalled that art. 18 (2) of the Anti-Trafficking Directive sets forth an obligation for Member States to take appropriate action, including through as information and awareness-raising campaigns, research and education programmes, where appropriate in cooperation with relevant civil society organisations and other stakeholders, aimed at raising awareness and reducing the risk of people, especially children, becoming victims of trafficking in human beings.

Some initiatives are reported to target **demand for services exacted from victims of trafficking, in particular awareness raising campaigns**. In particular, ES reported a campaign on initiative of the Ministry of Health, social services and equality and the Government delegation on gender based violence focussed on highlighting not only the consequences of normalising trafficking for the purpose of sexual exploitation with respect to the challenges in identifying the victims, but also on clarifying that demand for services contributes perpetuating the crime. IE carried out an awareness raising campaign, using media and social networks, targeting men to encourage them to make a stand against trafficking for the purpose of sexual exploitation, using the slogan “We don’t buy it”. In NL for the past years, the Ministry of Justice and Security has financed campaigns run by M. (Report Crime Anonymously) to make the general public, but also people in prostitution, clients and social workers, aware of trafficking in human beings for sexual exploitation and to stimulate them to report cases of exploitation. According to NL, the successful ‘Appearances Deceive’ campaign was continued by another campaign on forced prostitution from June 2014 to April 2015, resulting in 297 reports, of which 137 were about trafficking in human beings and 207 about illegal prostitution. The total number of reports rose by 34% compared to the previous campaign. Two-thirds of the reports substantially contributed to criminal investigations, meaning that they often concern information that is not known yet with the police. Twenty-three (23) suspects were arrested based on the anonymous tips. In 2016, a new campaign on forced prostitution, with a focus on minors, was introduced by M. From February until October 2016, 279 reports of coercion, exploitation and illegal prostitution were made.

Greece reports to have embarked on large-scale campaigns to reduce demand for services or products extracted from trafficking victims. In this context, as a good practice of effective collaboration between the State and the private sector to prevent is the public awareness campaign “BREAK THE CHAIN” – a product of a large partnership coordinated by the Office of the National Rapporteur, bringing together multiple stakeholders; most of them from the private and cultural sector.

Limited information was shared on evaluations or assessing impact of such activities (e.g. IE and PT). For example, IE reports that the ‘Men and boys’ campaign demonstrated that even in a short period, controversial and complex issues can be communicated, understood and supported by the public.

It is important to note that GRETA<sup>108</sup> has stressed the importance of impact assessment of awareness-raising initiatives in order to evaluate whether knowledge has increased and behaviour changed, and in order to plan future campaigns and other activities.

Civil society submissions point to the **lack of campaigns or educational programmes aiming at discouraging demand for sexual exploitation, the need for action to address demand especially in the context of use of sexual services provided by child victims of trafficking, calling for awareness raising campaigns targeting clients.** Furthermore, they point at the need to address in a preventive manner gender stereotypes and gender inequalities.

#### **5.4. Due diligence and responsibility of legal persons in the trafficking chain**

Member States report on measures to **address the responsibility of legal persons in the broader trafficking chain** (e.g. BE, DE, ES, FI, FR, IT, NL, PL, PT). Generally cooperation with the private sector is mentioned by Member States reports (e.g. BE, EL, IE, IT, NL, PT, UK). The French Act of 27 March 2017 on ‘the duty of care of parent companies and companies’, now obliges companies, employing in-house or in their subsidiary at least 5 000 employees in France or 10 000 employees in the world, to have in place a vigilance plan, which is to be published and implemented. It will require companies to have better control of all risks associated with their subcontracting chain.

BE and NL particularly note that companies are prosecuted and convicted for trafficking more often than before, with a limited number of convictions though so far. PT reports a strong commitment in addressing the issue of due diligence in supply chains and in National Plan to Prevent and Combat Trafficking in Human Beings (2018-2021) a specific Strategic Objective is to be implemented with several measures connected with supply chains.

#### **The Prime Champ Case in the Netherlands**

On 10 November 2016, the Limburg District Court delivered a judgment in the case against the mushroom farm ‘Prime Champ Production B.V.’ for malpractices in the period from July 2009 up to and including August 2012. The company and its director were sentenced for trafficking in human beings for labour exploitation of six Polish mushroom pickers and for forging pay slips and a part of the business records. The court also sentenced another financial manager and an ICT specialist hired by the company for forging of documents.

Due to the wording of the indictment, the court was only able to assess whether a small group of Prime Champ's Polish employees was exploited. The court imposed a custodial sentence of 24 months on the director of 'Prime Champ', and a fine of € 75,000 on the company Prime Champ Production B.V. The court imposed a custodial sentence of six months on the financial manager and 100 hours of community service on the ICT expert. The Public Prosecutor had argued for higher sentences, but the court only found the exploitation of a small group of Polish mushroom pickers proven beyond a reasonable doubt.

Sweden and the Netherlands make reference to **EU Public Procurement law** and its links with trafficking in human beings. NL reports on the Public Procurement Act, which entered into force on 1 April 2013 and was amended on 1 July 2016, providing a general legal framework for public procurement regulations and implementing the European public

<sup>108</sup> <https://rm.coe.int/greta-2018-1-7gr-en/16807af20e>.

procurement Directives,<sup>109</sup> as well as of the of the Responsible Business Conduct (RBC) system of the government of the Netherlands. The Framework on socially responsible public procurement determines that certain contractual obligations are obligatory in so-called at-risk sectors<sup>110</sup>. If a supplier from one of these at-risk sectors concludes a contract with the Dutch government, they are obligated, in accordance with the Organisation for Economic Co-operation and Development (OECD) Guidelines for Multinational Enterprises, to carry out a due diligence of their (international) supply chain to determine whether or not certain risks manifest in their supply chain. If that is the case, suppliers are obligated to draw up a plan on how they will work to diminish those human rights violations. In this context, NL reports that on 11 September 2015, the government published an Action plan for Responsible and Sustainable Procurement by governments 2015-2020<sup>111</sup>. It was drawn up by the Ministries of Infrastructure and the Environment, the Interior and Kingdom Relations, Economic Affairs, Social Affairs and Employment and Foreign Affairs. As part of this Action Plan, a Manifesto on Responsible and Sustainable Public Procurement<sup>112</sup> has been signed by more than 100 provinces, municipalities and district water boards. Socially responsible public procurement is one of the themes of this Manifesto.

IT reports that, among measures to address labour exploitation, a Memorandum of Understanding with the Automobile Club of Italy (ACI) was signed in 2015 by the former Directorate General for Inspection of the Ministry of Labour and Social Policy, currently National Labour Inspectorate. It enables inspectors to verify the owner of the means of transport by consulting registers, to enhance identification of gang-masters. Inspectors have the obligation to report cases of trafficking in human beings to the competent judicial authority.

FI reported on the Nordic Counter-Trafficking for Forced Labour Project (Nordic CTF project). The Government has initiated under the Ministry of Social Affairs and Health a national project which is drafting -as a part of this Nordic CTF Project-guidance to businesses against such practices that may cause trafficking and other related discrimination of workers.

DK further reports on the Danish Centre against Human Trafficking (CMM) guidelines '*Managing the Risk of Hidden Forced Labour – A Guide for Companies and Employers*', which serve as a quick guide for companies and employers risking to become associated with

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<sup>109</sup> Directive 2014/24/EU on public procurement; Directive 2014/23/EU on the award of concession contracts; Directive 2014/25/EU on procurement by entities operating in the water, energy, transport and postal services sectors; Directive 2007/66/EC amending Directives 89/665/EEC and 92/13/EEC with regard to improving the effectiveness of review procedures concerning the award of public contracts (Public Contracts Review Procedures Directive).

<sup>110</sup> Following the Social Economic Council's advice, the Netherlands government commissioned a study (by KPMG) to identify business sectors in which supply chains potentially pose heightened risks in terms of respect for human rights and labour rights as well as environmental protection. The study identified 13 priority sectors. This list consists of a variety of sectors including the textile/garment industry, construction, metals and electronics, oil and gas, agriculture and the food industry. A broad range of risks were taken into account in the analysis including issues such as child and forced labour, excessive working hours, health hazards and land grabbing. Since then, the government is in dialogue with these business sectors and their stakeholders in the Netherlands with the aim to agree on how to reduce potential risks in their supply chains, thereby giving concrete effect to their corporate responsibility, in line with the OECD Guidelines and the UN General Principles.

<sup>111</sup> See <https://www.pianoo.nl/document/11858/action-plan-for-responsible-and-sustainable-procurement-by-governments-2015-2020>.

<sup>112</sup> See <https://www.pianoo.nl/themas/maatschappelijk-verantwoord-inkopen-mvi-duurzaam-inkopen/ontwikkelingenmvi/manifest-maatschappelijk-verantwoord-inkopen>.

forced labour. The guidelines have been prepared in consultation with a number of different stakeholders<sup>113</sup> and are intended as an awareness, business risk management and practical prevention tool. The guide is a part of a double-edged strategy to combat and prevent forced labour by focusing both on private sector mobilisation and self-regulation, as well as on the role of the authorities, inspection and regulation.

UK reports that the transparency in supply chains provision in the Modern Slavery Act of 2015 requires large businesses to publish an annual statement setting out the steps they have taken to ensure that there is no modern slavery in their business and supply chains.

DE among others makes reference to its G7 Presidency in 2015 and G20 Presidency in 2017, where it featured the issue of ‘promoting good work in the world through sustainable delivery chains’ on the agenda and on which very concrete measures were adopted. During the German OSCE Presidency an event took place to launch the project ‘prevent trade in supply chains through government practices’, which aimed to develop guidelines for governments to ensure the ethical procurement of public procurement.

### **Non-financial Reporting**

Some Member States report on the EU rules on disclosure of non-financial and diversity information by large companies (such as BE, DE, NL). Directive 2014/95/EU lays down the rules on disclosure of non-financial and diversity information by large companies. This directive amends the accounting Directive 2013/34/EU. Companies are required to include non-financial statements in their annual reports from 2018 onwards. EU rules on non-financial reporting only apply to large public-interest companies with more than 500 employees. This covers approximately 6 000 large companies and groups across the EU. Under Directive 2014/95/EU, large companies have to publish reports 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). Directive 2014/95/EU gives companies significant flexibility to disclose relevant information in the way they consider most useful. In June 2017, the European Commission published its guidelines to help companies disclose environmental and social information. These guidelines are not mandatory, and companies may decide to use international, European or national guidelines according to their own characteristics or business environment, and make reference to trafficking in human beings among others.

## **6. ACCESS TO AND REALISATION OF RIGHTS FOR VICTIMS<sup>114</sup>**

The second targeted priority set forth in the 2017 Communication is ‘Provide better access to and realise the rights for victims’. While a comprehensive framework of rights for the assistance, support and protection of victims is in place by EU law, obstacles continue to persist in the realisation of such rights. The Commission's ‘Transposition Report’<sup>115</sup>

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<sup>113</sup> The guidelines have been developed in dialogue with a range of stakeholders including: the Agency for Labour Market and Recruitment (STAR), the Working Environment Authority (AT), the Central Customs and Tax Administration (SKAT), the Immigration Services (DIS), National Police, the Danish Business Authority (ERST) and the United Federation of Danish Workers (3F).

<sup>114</sup> Statistics available for 2014, 2015 and 2016 are included in the study on the data collection published with this report.

<sup>115</sup> Report from the European Commission 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), COM(2016) 722 final.

concluded in 2016 that national authorities have made substantial efforts to enact the Anti-trafficking Directive in national law, but there is still significant room for improvement, particularly as regards protection and support measures. The Transposition report refers to specific child protection measures, presumption of childhood and child age assessment, protection before and during criminal proceedings, access to unconditional assistance, compensation, non-punishment, assistance and support to the family member of a child victim. The Commission is following up the findings of this report.

It should be noted that the Anti-trafficking Directive, **reinforces most provisions of Directive 2004/81/EC on temporary residence permits to victims of trafficking in human beings as far as protection and assistance to victims is concerned**. Member States inform of having adopted very few pieces of legislation that touched on the core issues of Directive 2004/81/EC, since the last implementation report by the Commission in 2014<sup>116</sup>. When they did so, this was mostly in the direction of strengthening legal certainty for victims and improving the functioning of the residence permits mechanism. More information on the application of this directive can be found in Annex I.

### **6.1 Identification of Victims of Trafficking in Human Beings**

The Commission has reiterated on numerous occasions that victims must be treated as rights holders, and have access to appropriate, gender specific and child sensitive assistance and support. For this to happen, the key first step is that victims must be identified effectively and at an early stage.

Changes in the way that traffickers operate and the shift to less visible forms of coercion, a certain degree of possibility for movement, less evident forms of intimidation, threats, and a shift towards psychological violence, abuse of victims' dependencies (e.g. AT, BG, CY, CZ, IT, RO, PT) constitute challenges in identifying victims of trafficking. Victims do not come forward to report the crime, or do not self-identify as victims (e.g. AT, BG, EL, PT). The length of the procedure varies with some Member States reporting progress (e.g. CY, LT). Some Member States reported on adopting measures to improve identification (e.g. IE, LT, SI). For example, LT reports that the introduction of the 'Recommendations regarding identification of victims of trafficking, criminal investigations and interagency cooperation' and relevant trainings resulted in clear and faster procedures of identification of victims of trafficking.

In its country reports, GRETA<sup>117</sup> has emphasised the need to adopt an inclusive approach and develop formal and systematic consultation between governmental and non-governmental actors involved in anti-trafficking action, further calling for involving specialised NGOs in a multiagency effort to identify and protect victims of trafficking.

Despite progress made, some Member States report that the level of awareness among specialists of public and municipal institutions on identification of victims of trafficking still remains very low (e.g. LV). In this respect, the **role of local authorities is highlighted**. For example, the Ombudsman of the Republic of Latvia in his conclusions of the research 'The Role of Local Governments' Social Services, Orphan's and Custody Courts and Branch Offices of the State Employment Agency of Latvia in the Process of Identification of Victims of Trafficking in Human Beings' published on 29 March 2017 concludes that the research

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<sup>116</sup> COM(2014) 635.

<sup>117</sup> <https://rm.coe.int/greta-2018-1-7gr-en/16807af20e>

data confirms that not all institutions are equally successful in mapping the institutions that are part of the support system for victims of trafficking in human beings.

**‘Strengthening the Role of Municipalities in the Work against Trafficking in Human Beings in the Baltic Sea Region’(STROM Projects)**

EE, LT and LV report on improved strategies for actions of municipalities to address, prevent and fight trafficking in human beings and provide support, assistance and protection to victims of trafficking in human beings, as well as raising of awareness of local stakeholders, facilitating better cooperation and coordination between municipalities in the Baltic Sea region as long-term results of the STORM I project. Experts and representatives from other EU Member States BE, EL, HU, LU, MT, NL, PT, RO, SK, SI benefited from the project. The project has developed a platform for strengthening the cooperation among local actors at the national and regional levels. A follow-up project STROM II ‘Strengthening the role of municipalities in the work against trafficking in human beings’ which is the joint project between the Council of the Baltic Sea States (CBSS) and the Nordic Council of Ministers has been developed to implement the guidelines in depth in the municipalities in Latvia, Estonia, Lithuania and North-West of the Russian Federation.

**Limited information was furnished to the Commission on the evaluation or assessment of measures to identify, assist, support and protect.** In this respect, the Finnish National Rapporteur reported on a study conducted with the European institute for Crime Prevention and Control, affiliated with the United Nations (HEUNI) on the effectiveness of legislation that applies to assistance for victims of trafficking<sup>118</sup>. The objective of the study is to collect and analyse information on how the system of assistance now functions and how it could be developed. The study also aims to highlight the good practices, effective models and success stories related to the identification and assistance of victims of trafficking in municipalities. The research is multidisciplinary in nature, and it applies both jurisprudence and sociological methods of research. Funding for the project comes from the Finnish Government's analysis and research appropriations. The Rapporteur has recommended the Government to include trafficking in human beings in the agenda of gender equality and violence against women. The Rapporteur has also recommended the Government to evaluate the impact of the action against trafficking in human beings from a gender perspective in order to improve the victim identification and referral to assistance.

**The level of threshold applied for the purposes of initial identification of victims varies across the EU.** For example, IE reports to operate a very low threshold such that in certain cases, suspected victims enter the National Referral Mechanism immediately, and without an An Garda Síochána (AGS) interview, following referral from an NGO. Thus, in several cases, the decision by an NGO as a 'first responder' to refer a potential victim to AGS is sufficient as a form of assurance to AGS.

Despite the challenges noted, Member States **consider that progress was made in the identification of victims, not least due to the increased cooperation among different authorities and sectors involved in country but also at a cross-border level** (e.g. IE, PT).

Member States report facing increased challenges in identification, such as victims of trafficking for forced criminality, victims of trafficking for sexual exploitation in the context

<sup>118</sup> <https://www.syrjinta.fi/documents/14490/0/The+report+of+the+Non-Discrimination+Ombudsman+to+the+Parliament/9b16017c-b442-4805-8927-9f60f1d5c681>

of prostitution, especially when victims are given leeway to negotiate. Further challenges are also highlighted in cases where identification is exclusively under the competence of law enforcement authorities.

Particular challenges arise in the context of identification **of victims in mixed migration flows and international protection procedures** (e.g. AT, EL, FI, IT, LU), including in cases where the victims have been exploited outside of the jurisdiction of a Member State.

The European Border and Coast Guard Agency emphasised<sup>119</sup> that ‘the vital role of border guards in the fight against trafficking. Border guards may sometimes represent the only opportunity for victims to get support and protection from exploitation. It is therefore paramount that border guards are trained and properly equipped with the knowledge and resources that enable a swift and early identification of potential victims upon arrival, so as to ensure that the right referral and protection mechanisms are activated, adequate treatment and assistance provided and the risks of trafficking and future exploitation mitigated. Children and women represent some of the most vulnerable groups and their protection should be a top priority in Europe’.

Member States report new sets of indicators and guidance particularly for these issues, in cooperation with international organisations and the civil society (e.g. IT, IE, BE). In some cases the fact that upon arrival the exploitation might have not yet materialised is reported as a challenge to early identification (e.g. EL). EL reports that according to civil society in the field of reception of migrants and asylum seekers the increase of unaccompanied male minors presumed victims of trafficking is concerning. Another concern expressed by these NGOs is the appearance of presumed victims of forced marriage among young girls.

In this respect, Italy further stressed **the importance of facilitating identification through tailored lists of indicators differentiated by form of exploitation** and emphasised the importance of taking into account demand in the countries of destination, as a further tool to highlight high-risk groups and improve identification, including in the context of mixed migration flows.

Civil society report that **effective victim protection faces difficulties when the legal provisions on victim protection are in conflict with return procedures or the application of the Dublin III regulation**, which determines which Member State is responsible for examining an asylum application, and in some cases Member States have also expressed concerns on victims returned to the first Member State where the asylum claim had been lodged due to the enforcement of the Dublin III regulation (e.g. AT, FI).

**Victims of trafficking are a particularly vulnerable group in the EU asylum acquis**, and it is thus of paramount importance that the asylum systems communicate with national referral mechanisms for victims of trafficking.

**UN WOMEN<sup>120</sup> Report on the legal rights of women and girl asylum seekers in the European Union**

<sup>119</sup> [https://frontex.europa.eu/assets/Publications/Risk\\_Analysis/Risk\\_Analysis/Risk\\_Analysis\\_for\\_2018.pdf](https://frontex.europa.eu/assets/Publications/Risk_Analysis/Risk_Analysis/Risk_Analysis_for_2018.pdf).

<sup>120</sup> <http://eca.unwomen.org/en/digital-library/publications/2017/03/report-on-the-legal-rights-of-women-and-girl-asylum-seekers-in-the-european-union>.



In March 2015, the National Court of Asylum Law in France ('CNDA') ruled that trafficking was to be regarded as a form of persecution under the Refugee Convention and under the Qualification Directive. Whilst the outcome is to be applauded, the history of the case demonstrates the difficulties victims of trafficking for sexual exploitation may face in respect of the implementation of their right to asylum. The case concerned a woman, AB, who, after the death of several family members, was offered a job in Europe. She departed from Edo State, Nigeria after being subjected to a ritual ceremony known as "juju" used to mark her allegiance to the trafficking network. Once in Paris, AB was forced into prostitution to pay off the exorbitant debt she accrued to her trafficker. However, AB subsequently escaped her pimps, and applied for asylum. The French body responsible for initial asylum decisions, OFRPA (Office Français de Protection des Réfugiés et Apatrides), rejected AB's application for asylum. Upon appeal in 2011, the CNDA subsequently recognised AB as a refugee on the basis of a social group defined by reference to victims of trafficking. OFRPA formed an appeal against the CNDA's decision. Upon hearing the appeal, the CNDA recognised that trafficking is a form of persecution, and that Nigerian trafficking victims are at risk of persecution in their country of origin. Applying the 'social perception' test, the CNDA considered that the Refugee Convention ground of "membership of a particular social group" is recognised for Nigerian women from Edo State that are victims of trafficking. Having been subjected to "juju rituals", and having escaped the operating system of the traffickers, such women were thereby exposed to threats and shared 'a common history'.

Submissions by the civil society highlight the **inadequate measures on issuing residence permits to victims of trafficking who are non-EU nationals and granting reflection periods. In this respect, civil society notes that Member States are not respecting the obligation to proceed to an identification based on "reasonable-grounds indication"**. What is more, they note that excessive delays in the process of issuance create problems for the victims.

#### **6.1.1. National and Transnational Referral Mechanisms (NRMs and TRMs)**

**Most Member States report on having set up either formalised or non-formalised national referral mechanisms<sup>121</sup>.** In some cases, ongoing efforts are reported to improve functioning and effectiveness (e.g. LU, PL, PT), including with respect to: **specialised victims support services for children** (e.g. PL); revision of the mechanism (e.g. IE, UK); formal procedures guiding service provision by national authorities and civil society organisations (e.g. IE). In Lithuania, **additional legal tools for the national referral mechanism were introduced**, and responsible actors were trained during the reporting period. According to LT report, this resulted in a more comprehensive national referral mechanism and more sufficient assistance, support and protection services for victims of trafficking in Lithuania.

Some Member States report on foreseen (e.g. AT, EL, FI), or recent adoption of a formalised NRM (e.g. IT, BG). AT reports having adopted in 2016 a NRM for child victims. The NRM aims to foster the identification of child victims and provides guidelines for the support of

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<sup>121</sup> The Commission's first Progress Report and its accompanying Staff Working document have referred to the importance of early identification of victims of trafficking in human beings, which is reflected both in the Anti-Trafficking Directive and the EU Strategy. These mechanisms should describe procedures to better identify, refer, protect, assist and support victims, and include all relevant authorities and civil society organisations. The same report stated that according to the information available to the European Commission, over half of the Member States have formalised National Referral Mechanisms (NRMs) in order to coordinate the actors involved in identification, assistance, protection and reintegration.

victims of child trafficking. Based on extensive practical experience gained over the years, in 2017 a general NRM has been developed by the federal Ministry of the Interior, which is intended to be published at the beginning of 2018. Another example is BG, where the Council of Ministers adopted, by a decision of 20 June 2016, the National Referral Mechanism for Support of Trafficked Persons<sup>122</sup> (NRM), regulating the steps and procedures to be followed with a view to rendering immediate and adequate assistance and support to victims of trafficking. In addition, the NRM outlines an algorithm of timely and comprehensive interagency communication and coordination. The BG National Anti-Trafficking Commission is the coordinating body under the NRM. Furthermore, IT reported that a national referral mechanism has been introduced for victims of trafficking, with **Standard Operating Procedures (SOP) to ensure full “step-by-step” assistance.**

IE reports that the Irish government has recognised the need for a fundamental re-examination of the victim identification process and the role to be played in that process by all stakeholders including non-governmental organisations. A comprehensive review of the victim identification process was instigated by the Anti-Human Trafficking Unit in 2016 and an enhanced process is currently being developed within the framework of the Second National Action Plan.

Civil society **highlights persistent shortcomings in the functioning of national referral mechanisms**, in particular on the need to ensure a multidisciplinary approach and involvement of civil society as relevant, appropriate trainings and capacity building for all relevant actors involved, ensuring equal implementation of the mechanism in the whole national territory, envisage specific protection measures for child victims, include a mechanism for reviewing negative decisions. In some cases, where such mechanisms are not yet in place, civil society stresses the crucial need to formalize procedures and adopt clear guidelines for all relevant actors. Positive experiences are also shared in some contributions.

#### **A Toolkit for Guidance in Designing and Evaluating Counter-Trafficking Programmes**<sup>123</sup>

This toolkit developed by the United Nations Inter-Agency Coordination Group against Trafficking in Persons (ICAT) provides an accessible and easily employable set of tools that practitioners can use to put sectoral learning to work and improve their counter-trafficking programmes. These tools are intended to help strengthen programme design, inform planning for evaluation, and engender formative and summative learning. It is hoped that the wide use of such tools will lead to more effective programmes that, together with their evaluation, would contribute to further building the evidence base of “what works” to respond effectively to trafficking in persons.

Part I provides an overall starting point for the design of counter-trafficking interventions, outlining a series of questions to help map the specifics of individual trafficking patterns and identify the most appropriate set of responses.

Part II elaborates on seven types of counter-trafficking activities coupled with discussion on lessons learnt and indicators.

<sup>122</sup> The National Mechanism for Referral and Support of Trafficked persons in Bulgaria is developed within the framework of a project funded by MATRA programme of the Dutch Ministry of Foreign Affairs and implemented by Animus Association Foundation and La Strada International in partnership with the Bulgarian National Commission for Combating Trafficking in Human Beings and its administration, in the period from 2008 to 2010. The draft NRM was endorsed at a meeting of the NCCTHB on 23 November 2010.

<sup>123</sup> [http://icat.network/sites/default/files/publications/documents/16-10273\\_ICAT\\_toolkit.pdf](http://icat.network/sites/default/files/publications/documents/16-10273_ICAT_toolkit.pdf).

### **2017 Communication Deliverables**

**The 2017 Communication notes that inadequate access to information about victims' rights and ineffective referral mechanisms at national and transnational level, coupled with failure to identify all those who fall victim to trafficking (including those in mixed migration flows) continue to prevent victims of trafficking from actually accessing the rights they are entitled to.** For this reason, the functioning of the NRMs and TRMs will be looked at in the coming period as a key action under the 2017 Communication. In this respect, a study on reviewing the functioning of **Member States' national and transnational referral mechanisms** was launched<sup>124</sup>. Further, the EU Civil Society Platform meeting on 28-29 May 2018 included a workshop dedicated to sharing experiences and views to address challenges in national and transnational referral mechanisms and improve their functioning.

### **6.1.2. Transnational cooperation**

Member States report on **increasing transnational cooperation, including for cases of safe return and reintegration.** Member States report cooperation with other EU and non-EU countries, neighbouring countries, international organisations and civil society. Procedures take time but Member States acknowledge improvements through cooperation and networks established over time. Member States highlight the role of European Commission funding in this respect. The Study on the Comprehensive policy review of EC funded anti-trafficking projects (2016)<sup>125</sup> has analysed European Commission funding during the period of 2004-2015 with regard to national and transnational referral mechanisms and concluded that European Commission funding contributed to the functioning of NRMs and TRMs, but pointed to the need for further developments.

### **Transnational Referral Mechanism Model by the International Organisation of Migration**

As a deliverable of the EU Strategy (Priority A: Identifying, protecting and assisting victims of trafficking, Action 1: Establishment of National and Transnational Referral Mechanisms (NREMs and TRMs), IOM launched an online platform featuring a Transnational Referral Mechanism Model – TRM<sup>126</sup>, an outcome of the EU-funded Transnational Action (TACT) project. The tool contributes to ensuring victims' access to rights throughout the process, and especially in a situation of cross-border referral, linking up experts and professionals from different countries involved in the identification, referral, assistance, return, and monitoring of assistance to victims of trafficking. It defines the roles of each stakeholder participating in national referral mechanisms (NRM) and serves as a platform to inform and connect counter-trafficking practitioners in countries of origin and countries of destination.

### **Referral and assistance for victims of trafficking in Europe**

**'Referral of and assistance for victims of human trafficking in Europe' (RAVOT-EUR<sup>127</sup>)** was co-financed by the European Commission under the Programme 'Prevention of and Fight against Crime'. The project was implemented during the period of 1 February 2014 - 31 January 2016. The project aimed to develop a transnational referral mechanism among HU,

<sup>124</sup> Tender available at: <https://etendering.ted.europa.eu/cft/cft-display.html?cftId=3932>

<sup>125</sup> [https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/study\\_on\\_comprehensive\\_policy\\_review.pdf](https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/study_on_comprehensive_policy_review.pdf).

<sup>126</sup> <http://www.iomfrance.org/tact/>.

<sup>127</sup> For more details, please refer to: [https://ec.europa.eu/anti-trafficking/eu-projects/ravot-eur-%E2%80%93-referral-and-assistance-victims-human-trafficking-europe\\_en](https://ec.europa.eu/anti-trafficking/eu-projects/ravot-eur-%E2%80%93-referral-and-assistance-victims-human-trafficking-europe_en).

BE and NL, which would contribute to the assistance and safe return and referral of victims of trafficking related to sexual and labour exploitation and facilitate transnational networking and trust building among professionals. The project also aimed at developing a better understanding and trust between non-governmental organisations and the relevant authorities in the field of trafficking. As part of this project a manual has been developed that describes what kind of support exists for victims of trafficking in human beings in the three countries. A website has been built in which the different national referral mechanisms of the three countries are shown in a flowchart. An interactive map can be found on the website on which the relevant organisations are represented in the three countries. See: <http://www.ravot-eur.eu/>. The website is designed as a resource manual for social workers, legal experts, law enforcement authorities, victim support services, civil servants and other service providers active in the fight against trafficking.

Sweden, furthermore, reports on the appointment of an anti-trafficking ambassador in May 2016. The objective is that the ambassador will strengthen Sweden's international profile as a human rights defender. At the same time, the mandate serves as an important instrument for concrete measures to improve the effectiveness of international efforts and cooperation. Through the ambassador's work, Sweden will also work to ensure that particular attention is paid to the gender equality perspective in international efforts to combat trafficking in human beings. The ambassador aims to facilitate dialogue between various governments, national agencies and international organisations on issues focusing on the prevention of trafficking, the protection of its victims and on the prosecution of perpetrators. The appointment of an ambassador will also contribute to increased knowledge and quality in the work of relevant Swedish government agencies.

## **6.2. Assistance and protection of victims of trafficking**

Member States have reported on assistance, support and protection of victims. However, some **issues persist as to the unconditional and effective access of victims to these rights**. Some reports indicate **recent initiatives, measures and proposals, including legislative, to improve assistance and support for victims** (e.g. BE, BG, DE, EE, ES, FR), including particular aspects, such as the use of modern technology to avoid secondary victimisation in criminal proceedings (e.g. CZ, PT).

While most Member States report on having established shelters for victims and appropriate accommodation, **civil society remains critical on the accessibility, availability, and appropriateness** (with respect to gender, age and consequences of the form of exploitation victims have been subjected to) of such accommodation. The Danish Centre against Human Trafficking notes that a vast proportion of Nigerian women being arrested in raids, identified and referred to support, refuse support and assistance or abscond from shelters often after a very short period.

FI reports that in 2014, the Non-Discrimination Ombudsman (previously the Ombudsman for Minorities) who acts as the National Rapporteur on Trafficking in Human Beings submitted a report to the Parliament drawing attention to the disparity between the number of applicants and the number of accepted clients in the assistance system.

**Accommodation for male victims is mentioned in few reports** (for example AT, PT, SE). PT reported that the shelter and protection centre for male sex trafficking victims, managed by Saúde Português, has, together with Agência para a Prevenção do Trauma e da Violação dos Direitos Humanos and Centro de Prevenção e Tratamento do Trauma Psicogénico do Centro

Hospitalar e Universitário de Coimbra, established protocols that allow psychological and/or psychiatric support in order to prevent further secondary victimisation and increase of the trauma. AT reports that MEN VIA, which was the first victim protection service assisting trafficked men in Austria, had to close down its shelter service in December 2017 due to budgetary restrictions. Relevant state authorities are currently looking for new funding models to further sustain its shelter programme. According to AT, MEN VIA has become a well-known institution for male victims of trafficking in human beings. A wide range of organizations, not only the police, now refers potential victims to MEN VIA. MEN VIA had so far assisted 107 men in total, 36 received support during legal proceedings.

**Cooperation with the private sector for assistance and support to victims is also mentioned.** For example, EL reports that a known chain of supermarkets runs a programme for survivors of trafficking that consists of training them either to be employed by the firm, or by other enterprises. Another practice reported by EL is the Social Fashion Factory (SOFFA). SOFFA is the Sustainable Fashion Factory that provides work integration to trafficked survivors and refugees.

#### **Civil society concerns on victims**

Civil society express concern over the **lack of a transitional period after official assistance and support measures provided by the state are terminated.** Furthermore, they note that assistance and support is often closely linked to the outcome of the criminal process and that the excessive length of such process poses challenges for the victims and renders them even more vulnerable. It is further highlighted that outcomes of a wide range of relevant processes, including judicial proceedings, are not consistent throughout the national territory. Furthermore, civil society reports the lack of psychological assistance to victims.

Civil society further stresses **significant challenges in ensuring the realisation of the rights of victims with respect to protection during criminal proceedings, including limited provision of counselling, information and free legal aid, as well as complexity of procedures, and limited support and protection offered to the victim.** Some contributions indicate the role played by civil society organisation in these areas, both with respect to legal aid and counselling, as well as support throughout the process.

#### **6.2.1. Assistance and protection of child victims**

**Children, both EU and non-EU nationals, are particularly vulnerable to trafficking in human beings, and their identification and access to rights remain challenges.** As previously recalled, the Transposition Report published by the Commission indicated that, despite the efforts of the Member States in transposing the provisions of the Anti-trafficking Directive, there still remains significant room for improvement, in particular regarding specific child protection measures, presumption of childhood and child age assessment, the protection before and during criminal proceedings, access to unconditional assistance, compensation, non-punishment, assistance and support to the family member of a child victim, as well as prevention.

GRETA<sup>128</sup> also called on the national authorities of States Parties to ensure a protective environment for children in street situations and unaccompanied or separated children, and to strengthen the capacity and resources of child protection professionals to prevent child trafficking for all forms of exploitation.

<sup>128</sup> <https://rm.coe.int/greta-2018-1-7gr-en/16807af20e>.

Many Member States address the particular vulnerability of children to trafficking, and report on initiatives and measures for their assistance and protection. Reports by the Member States mention specific procedures in place to address child trafficking, including with respect to existing specific legislation (e.g. BE, IT) as well as special procedures with respect to child trafficking, also in mixed migration flows. In Austria, in October 2016, the Task Force Working Group on Child Trafficking developed a national referral mechanism (NRM) for victims of child trafficking. The NRM aims to foster the identification of child victims and provides guidelines for their support. Further, in 2014–2016 in Lithuania, the State Child Rights Protection and Adoption Service, under the Ministry of Social Security and Labour, adopted or improved legal acts on handling cases of children in risk situations, including cases of child victims of trafficking.

Some reports mention **comprehensive protection systems for child victims**, such as multidisciplinary assessments overseen by a social worker, and involving medical, psychological, and educational services (e.g. IE); specific procedures in place to improve identification of child victims, and assessments of risks (e.g. NL, PL, PT); specific protection measures for children at risk (e.g. CZ, PT); early warning systems for missing children (e.g. PL); protection in criminal proceedings (e.g. MT).

Furthermore, some reports (e.g. FI) express concern in limited consideration of the child's individual situation and risks of re-trafficking in assessing the best interests of the child (e.g. FI). Concerns on the disappearance of unaccompanied minors (e.g. LU), and on the need of comprehensive and integrated approach for non-EU unaccompanied minors (e.g. BG) were also reported. Other Member States stress the need for appropriate and specialised accommodation for child victims, (e.g. PT). As an example, MT and EE report having set up a 'Barnahaus' (Children's House), based on the Nordic system, where children can be interviewed by the judiciary and other professionals in an appropriate environment.

#### **Civil Society addresses the assistance and protection of child victims**

In their contributions, civil society organisations shared practices based on their experiences on the ground, regarding, amongst others: cooperation between civil society organisations and national authorities, including law enforcement; specific measures adopted by civil society working with child victims to limit the child's external contact; and organisation of education activities. Civil society stresses the need to focus on ensuring appropriate expertise, trainings and capacity building for all relevant actors, including guardians, social and health workers. Concerns were highlighted with respect to the protection of victims' children, including on addressing the specific psychological consequences suffered, stressing that, based on their experience, a high number of assisted women victims have children. There is limited information in national reports on children of victims, but IE reports that access to education for dependent children is provided.

While highlighting some progress with respect to guardianship for child victims without parental care, civil society notes deficiencies in processes and implementation, and stresses the need for systematic integration of the role of guardians in procedures for child victims.

GRETA<sup>129</sup> notes that, in most countries, legislation provides for the appointment of legal guardians to child victims of trafficking, but the procedure is cumbersome and there are

<sup>129</sup> <https://rm.coe.int/1680706a42>.

delays in the appointment of guardians, who often cannot be considered independent and acting in the best interest of the child.

**The context of migration has further exacerbated children's vulnerabilities**, and the European Border and Coast Guard Agency<sup>130</sup> stressed challenges particularly where the centres lack adequate conditions (i.e. weak or non-existent protective structures), or the children share overcrowded facilities, with adults not related or unknown to them. The European Migration Network<sup>131</sup> reported that about a third of the Member States have specific facilities catering to the needs of child victims of trafficking. On this, as an example, IT reports on the set up of dedicated first reception centres for unaccompanied children, to prevent absconding, as well as contacts and/or recruitment by criminal networks.

In the same report, the European Migration Network indicates that, in Member States, disappearances linked to instances of trafficking in human beings are underreported, and indeed the European Border and Coast Guard Agency<sup>132</sup> further notes that traffickers operate outside reception centres, picking up their victims upon arrival. This phenomenon is particularly prevalent in the trafficking of Nigerian girls, who frequently claim to be older at arrival, and are accommodated in open reception centres alongside other migrants, from where it is easier to escape. Further details are highlighted in EASO<sup>133</sup> publications, highlighting that (children claiming to be adults) could be instructed by relatives or accompanying adults who want to prevent separation, or by a member of the trafficking network who wants to keep control over and have easy access to the children during their stay in the territory. Therefore it is very important to keep in mind that a doubtful claim of adulthood may be an indicator that the applicant is a potential victim of trafficking, and authorities should act accordingly (flagging and referring to relevant national services, including possible assessment as a victim of trafficking).

The Commission has made recommendations to the EU Member States for strengthening the protection of migrant children<sup>134</sup>, which were endorsed by the European Council<sup>135</sup> and by the European Parliament<sup>136</sup>. **The Communication on the protection of children in migration adopted in April 2017 includes actions for the EU and recommendations for actions for EU Member States to protect children on the move.** Further, in 2017, the Council of the European Union adopted the revised 'EU Guidelines for the Promotion and Protection of the Rights of the Child – Leave No Child Behind'<sup>137</sup>. These guidelines set out the overall EU strategy on the rights of the child in external action. The guidelines propose concrete actions, such as the support to partner countries in order to adopt a national strategy on the rights of the child, based on a child-rights analysis of the situation of children in a country.

### **The Role of the Information Technology Systems in Tracing Missing Children**

<sup>130</sup> [https://frontex.europa.eu/assets/Publications/Risk\\_Analysis/Risk\\_Analysis/Risk\\_Analysis\\_for\\_2018.pdf](https://frontex.europa.eu/assets/Publications/Risk_Analysis/Risk_Analysis/Risk_Analysis_for_2018.pdf).

<sup>131</sup> [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/00\\_eu\\_synthesis\\_report\\_unaccompanied\\_minors\\_2017\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/00_eu_synthesis_report_unaccompanied_minors_2017_en.pdf).

<sup>132</sup> [https://frontex.europa.eu/assets/Publications/Risk\\_Analysis/Risk\\_Analysis/Risk\\_Analysis\\_for\\_2018.pdf](https://frontex.europa.eu/assets/Publications/Risk_Analysis/Risk_Analysis/Risk_Analysis_for_2018.pdf).

<sup>133</sup> <https://www.easo.europa.eu/sites/default/files/easo-practical-guide-on-age-assesment-v3-2018.pdf>.

<sup>134</sup> Communication on the protection of children in migration, COM(2017) 211 final of 12.4.2017.

<sup>135</sup> 10085/17, <http://data.consilium.europa.eu/doc/document/ST-10085-2017-INIT/en/pdf>.

<sup>136</sup> See European Parliament resolution of 3 May 2018 on the protection of children in migration (2018/2666(RSP)) at <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2018-0201+0+DOC+XML+V0//EN>.

<sup>137</sup> [https://eeas.europa.eu/sites/eeas/files/eu\\_guidelines\\_rights\\_of\\_child\\_2017.pdf](https://eeas.europa.eu/sites/eeas/files/eu_guidelines_rights_of_child_2017.pdf).

The EU Agency for Fundamental Rights Agency (FRA) published a report focussing on the role of IT systems with respect to tracing missing children<sup>138</sup> ‘IT systems could help trace missing children and prevent child abductions. According to desk research undertaken by FRA in 2015, most Member States systematically create SIS II alerts if a child is reported as missing, but reception centres do not necessarily report this fact to the police. The reasons why children avoid being registered or go missing, are multiple; including, for example, lack of trust in family reunification under the Dublin regulation; fear of being prevented from reaching their intended destinations; and lengthy processing times for their applications. Some of those missing may be subject to abuse and exploitation, including trafficking in human beings. The prevailing opinion among officers and experts interviewed in the field research was that the use of biometrics and other data stored in databases could contribute to better tracing missing and abducted children. According to most border guards surveyed, when it is discovered that a child is registered as missing in SIS II, that child is always sent for a second line check at the border. (...) To improve possibilities to detect missing children, some of them possibly victims of human trafficking, systematic recording of missing children in SIS II could be further interlinked with changes in other systems. In this context, synergies with Eurodac could be considered also given the planned reduction of the age of children to be included in the system. For example, once a child is reported as missing, interoperability between Eurodac and SIS II could make the child’s data from Eurodac available to authorities responsible for the prevention, detection and investigation of trafficking. This could be combined with a specifically defined child protection objective that would be added to the Eurodac Regulation to ensure that such access would be in line with the principle of purpose limitation, without unduly extending the availability of the data of all children’.

EU legislation on the visa application procedure for short-stay visas exempts children under the age of 12 from providing fingerprints. In May 2018, the Commission published a Proposal<sup>139</sup> accompanied by an Impact Assessment<sup>140</sup> that took into account, amongst other things, the risks of irregular migration and visa fraud, in particular trafficking in human beings and other abuse involving children under 12 years old, when applying for a visa. The proposal includes lowering the fingerprinting age for child applicants from 12 years to 6 years, to allow officials to verify a child’s identity in the visa application procedure, and enable checks when crossing an external border. The measure would better protect children while keeping the child’s best interests at the forefront. Additional safeguards are introduced in order to ensure that the best interest of the child is preserved throughout the visa processing procedure, and in any subsequent use of children’s data.

### **2017 Communication deliverables**

The Commission’s Call for proposals for Union Grants of the AMIF priority on trafficking in human beings in 2017 and 2018 recommended taking into account gender specificity and child sensitivity. Horizon 2020 Work Programme 2018-2020 on "Secure societies- Protecting freedom and security of Europe and its citizens" Sub-topic 1 (2018) includes trafficking in human beings under ‘New methods to prevent, investigate and mitigate trafficking of human beings and child sexual exploitation – and on the protection of victims’.

<sup>138</sup> [http://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2018-biometrics-fundamental-rights-eu\\_en.pdf](http://fra.europa.eu/sites/default/files/fra_uploads/fra-2018-biometrics-fundamental-rights-eu_en.pdf).

<sup>139</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2018%3A302%3AFIN>.

<sup>140</sup> [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-security/20180516\\_cswd-regulation-proposal-european-parliament-council\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-security/20180516_cswd-regulation-proposal-european-parliament-council_en.pdf).



### **6.3. Cooperation with civil society and other actors**

Numerous Member State reports (e.g. BE, BG, CZ, DE, EL, ES, FI, FR, IE, IT, LU, PL) **mention cooperation with the civil society, especially in the context of identification, assistance and protection.** Some reports indicate working groups/platforms at national level in which NGOs participate (e.g. IT, ES). For example, ES reports that following the National Rapporteur's appointment, a mechanism was created for permanent, periodic contacts with specialised civil society organisations and entities. Thanks to this collaboration mechanism, since 2014 there have been fourteen meetings with representatives of the Spanish Anti-Human Trafficking Network that brings together the main national and international organisations working in the field of trafficking in Spain. PL reports a strong emphasis of the national action plan on cooperation with NGOs, with several NGOs participating to the Inter-ministerial Committee on Fighting Against and Preventing Trafficking in Human Beings, an advisory body to the Prime Minister. IE mentions the key role of NGOs in assistance and protection of victims. FI mentions the role played by civil society organisations in the context of a network on initiative of the national anti-trafficking coordinator on the drafting of the national action plan, as well as with respect to the provision of assistance to victims through projects. DE reports on cooperation in drafting an action plan for civil society and law enforcement cooperation for assistance and protection of child victims. Submissions by civil society acknowledge cooperation with state authorities, and make reference to positive examples of cooperation.

Instances of cooperation with national authorities are also highlighted in contributions by civil society with respect to involvement in specific working groups and fora, including experiences on social rehabilitation of victims, provision of support by service providers, identification of victims and data collection, study visits, provision of information to victims.

At the same time, civil society also reports that efforts to enhance cooperation across a wide range of actors at national level are still a challenge, and often left to individual initiatives of specific actors, and stresses the need to formalise procedures to facilitate, promote and enhance information exchanges across all actors involved, including to address specific challenges that might arise with respect to child victims.

### **6.4. Compensation to victims**

The Commission's 'Transposition Report' concluded in 2016 that national authorities have made substantial efforts to transpose the Anti-trafficking Directive in national law, but there is still significant room for improvement, particularly as regards protection and support measures, including compensation to victims.

**Some Member States report that victims were receiving compensation, but most contributions refer to challenges.** AT points out that although the legal framework for freezing, seizure and confiscation of proceeds of crime has been improved, effective compensation of victims of trafficking remains low. BG reported on Amending and Supplementing the Act on Assistance and Financial Compensation for Crime Victims related to the provisions of EU Directive 2012/29/EU<sup>141</sup> and noted that while no victims of trafficking have yet received financial compensation under the Assistance and Financial Compensation for Crime Victims Act, victims have been awarded compensation in other ways. EL reports that there are legislative provisions on compensation, however, the

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<sup>141</sup> 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.

competent Compensation Authority has not received so far any relevant applications from victims of trafficking or their legal representatives.

Member States report on **different paths for accessing compensation**, either through criminal proceedings or by instituting separate civil action, including via interim measures. LV notes the different approach towards receiving state compensation if the victim is formally identified in the criminal proceedings or by a mandated NGO. IT reports on the Annual Fund against Trafficking, which is financed by the proceeds from the confiscation of goods after a judgment of conviction. Compensation is also due in cases where the perpetrators of crimes are unknown. PL reports on recent legislative amendments that allow victims of trafficking to seek compensation during criminal proceedings and in civil proceedings, independently of criminal proceedings. Such compensation from the perpetrator in criminal or civil proceedings or State compensation can be sought after the victim has returned to his/her country of origin. PL sights at least one case where a returned victim applied for compensation from the perpetrator in criminal proceedings. There are no known cases of State compensation having been rewarded to victims of trafficking in human beings or to victims who returned to their countries. PL informs that the amendment to the Act of 7 July 2005 on state compensation to victims of certain intentional offences allows 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. Finally, Estonia reports on one study conducted<sup>142</sup> about the possibilities and ways to provide moral compensation for victims.

#### **Commission Commitment on the Compensation of Victims**

In October 2017, a Special Adviser to President Jean-Claude Juncker for the compensation of victims of crime was appointed. Her mandate is to advise the President on how the Commission can foster a better implementation of the existing rules on the compensation of victims of crime. Compensation for victims is often hindered by the complexity and diversity of the national compensation schemes, including the differences in compensation payments across Member States. The Special Adviser is focusing on how to improve cooperation among national authorities responsible for the compensation of victims of crime, on access to information in cross border situations and on possible options for a faster and fairer compensation across the EU. The Special Adviser attended the meeting of 4-5 December 2017 of the EU Network of National Rapporteurs and Equivalent Mechanisms and the meeting on 28-29 May 2018 of the EU Civil Society Platform against trafficking in human beings, which also included a dedicated session in one of the workshops attended by participant NGOs. This was followed by a survey launched with the EU civil society against trafficking in human beings for their contributions on compensation to victims of trafficking in human beings to feed in the work of the Special Adviser.

According to GRETA ‘despite the positive examples, effective access to compensation remains out of reach for most trafficked people. This amounts to a major failing of States Parties in their duty to help trafficked people, and makes their rehabilitation all the more difficult. [...] There is in general a scarcity of available information on compensation awarded to victims of trafficking for the purpose of labour exploitation. In many countries, there is no recorded information on any compensation received by victims of trafficking and several countries still lack State compensation schemes accessible to victims of trafficking.”

<sup>142</sup> [http://norway-grants.eluiliin.ee/images/pdf/Inimkaubandus-moraalne\\_kompensatsioon.pdf](http://norway-grants.eluiliin.ee/images/pdf/Inimkaubandus-moraalne_kompensatsioon.pdf).

Furthermore, GRETA has "called on the authorities of most States Parties to enable victims of trafficking to exercise their right to compensation by including victim compensation in training programmes for law enforcement officials, prosecutors and judges, building the capacity of legal practitioners to support victims to claim compensation, making the State compensation scheme effectively accessible to victims of trafficking, and making full use of the existing legislation on the freezing and forfeiture of assets to secure compensation to victims of trafficking.'

Civil society contributions overall highlight that **significant challenges exist with respect to access to compensation for victims** of trafficking, with information on the implementation of national provisions in this sense being still limited, and procedures complex. Particularly victims of trafficking for sexual exploitation sometimes are not able to meet requirements for producing evidence of verifiable expenses or employment losses.

In order to increase access to compensation, assistance and support, information provided for this report indicates a need to continue promoting the use available legal instruments and to consider the use of seized and confiscated instrumentalities and the proceeds from the trafficking offences to support victims' assistance and protection, including compensation of victims.

#### **6.5. Application of the non-punishment principle**

According to Art. 8 of the Anti-Trafficking Directive Member States shall, in accordance with the basic principles of their legal systems, take the necessary measures to ensure that competent national authorities are 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 trafficked.

**Limited information has been provided on the application of the principle of non-punishment.** PL reports not having in place measures to ensure the non-punishment principle, while others report that in some cases, the potential victim of trafficking has been sentenced to imprisonment for a crime (e.g. FI).

Civil society organisations stress that **overall the implementation of the non-punishment principle is very limited, and in some cases the law does not clearly include the requirement for all forms of exploitation.** In particular, victims of trafficking for the purpose of sexual exploitation in the prostitution sector, predominantly women and girls, and victims of trafficking for forced criminal activities are at high risk of being punished for crimes they have been forced to commit because of their exploitation.

#### **The principle of non-punishment of victims of trafficking**

GRETA<sup>143</sup> has reported that most countries evaluated in the course of the second evaluation round have adopted specific legal measures on non-punishment of victims of trafficking who have been compelled to be involved in unlawful activities due to their trafficking situation (with the exception of Austria, Croatia, Montenegro and Denmark).

Some GRETA reports published as part of the second evaluation round provide examples of situations in which the non-punishment provision was applied to child victims of trafficking. GRETA reports also provide examples of cases in which the non-punishment provision was not applied to child victims of trafficking. For example, in Austria, GRETA received reports

<sup>143</sup> <https://rm.coe.int/1680706a42>.

about the case of a 17-year old girl from Bosnia and Herzegovina who was sentenced by a court in Vienna to 18 months' imprisonment for theft, despite indications that she had been pressured to commit the offences by traffickers. According to information provided by the Austrian authorities, although a certain family-related pressure was acknowledged by the court as a mitigating circumstance in the case in question, there was not sufficient evidence to say that the girl was a victim of trafficking. GRETA has urged the Austrian authorities to take additional measures to ensure compliance with Article 26 of the Convention, including the adoption of a specific legal measure and/or the development of guidance for police officers and prosecutors on the scope of the non-punishment provision, including with regard to administrative/civil law sanctions.

## **7. INTENSIFY A COORDINATED AND CONSOLIDATED RESPONSE**

The 2017 Communication identified as a targeted priority **to intensify a coordinated and consolidated response, both within and outside the EU**. Since the adoption of the 2017 Communication, the EU Anti-trafficking Coordinator presented the targeted priorities set forth to the EU Network of National Rapporteurs and Equivalent Mechanisms and to various bodies and Committees, such as the European Parliament (Civil Liberties, Justice and Home Affairs (LIBE) and on Women's Rights and Gender Equality (FEMM) Committees, as well as the Subcommittee on Human Rights (DROI.) and the Council High Level Working group on Migration and Asylum, and the Standing Committee on Operational Cooperation on Internal Security.

As mentioned in the previous sections, generally **Member States report on increasing cooperation at local, national and transnational level**. Part of the mandate of the EU Anti-Trafficking Coordinator, based on Article 20 of the Anti-Trafficking Directive, is to foster cooperation and policy coherence. In this respect, during this reference period, the European Commission/EU Anti-trafficking Coordinator held **regular biannual meetings with the EU Network of National Rapporteurs and/or Equivalent Mechanisms, as well as the EU Civil Society Platform against Trafficking in Human Beings**. Work with **international organisations, EU institutions and EU agencies, including the Justice and Home Affairs agencies** has been further fostered.

As an inherent part of the coordination effort, work conducted in both **EU internal and external policies, including through contributions to briefings, reports, speeches, thematic background notes, EU statements, participation to internal meetings, monitoring of and input in relevant policy areas**. In this framework, close cooperation is ensured with a wide range of relevant services in the various Directorates General of the European Commission (e.g. through the participation to Inter Service Groups, including on rights of the child, equality between women and men; the Roma Task Force and the Security Union Task Force), as well as with the European External Action Service and EU Delegations in non-EU countries.

In the reporting period, **the European Parliament issued two relevant resolutions: 1) Preventing and combating trafficking in human beings<sup>144</sup>, and 2) the fight against trafficking in human beings in the EU's external relations<sup>145</sup>.**

<sup>144</sup> <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2016-0227+0+DOC+XML+V0//EN>.

<sup>145</sup> <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2016-0300+0+DOC+XML+V0//EN>.

**Upon invitation of national authorities, country visits were conducted by the EU Anti-Trafficking Coordinator in numerous EU Member States, such as Romania, Bulgaria, France, Greece, Italy, Romania, United Kingdom, and Luxembourg.** Furthermore, numerous bilateral and multilateral exchanges with governmental and non-governmental stakeholders took place in the reporting period.

Finally, cooperation was fostered with strategic partners at the international level, and policy coherence was ensured in **several multilateral processes such as the Conference of the Parties to the United Nations Convention against Transnational Organised Crime, the preparatory work for the Global Compact for Safe and orderly Migration, the High level meeting for the Appraisal of the United Nations Global Plan of Action to combat trafficking in human beings and others**<sup>146</sup>. In addition, further engagement with the United Nations Inter-Agency Coordination Group against Trafficking in Persons (ICAT) was sought.

### **7.1. EU Network of National Rapporteurs or Equivalent Mechanisms on Trafficking in Human Beings**

The EU Network of National Rapporteurs or Equivalent Mechanisms on Trafficking in Human Beings (NREMs) was first established following Council Conclusions in June 2009. Furthermore, the role of the NREMs is elaborated in the Anti-trafficking Directive.

The NREMs are responsible for monitoring the implementation of anti-trafficking policy at the national level, and play a crucial role in data collection on trafficking in human beings at both national and EU level. The European Commission, via the Office of the EU ATC, has worked actively to facilitate and strengthen the work of the EU Network of NREMs, in order to allow for enhanced information sharing and exchange of best practices as well as to ensure best coordination of tasks at EU and national level. Currently, the successful functioning of the Network is ensured with biannual meetings attended by all NREMs, appointed by the EU Member States, and independent bodies, where available. The EU ATC, on behalf of the European Commission, chairs the meetings with the incumbent EU Presidency. This allows for working at operational, strategic, as well as monitoring level, in an informed and coordinated way.

In line with the Commission's strategy for '**A credible enlargement perspective for and enhanced EU engagement with the Western Balkans**',<sup>147</sup> the EU Anti-trafficking Coordinator participated in events facilitating dialogue between the network of National Anti-trafficking Coordinators of the South-East European countries ('SEE Coordinators'), and the EU Network of NREMs. She also intervened on the Sofia forum on 31 May 2018 on "**Western Balkans and the European Union: Systems for Combatting Human Trafficking in Southeast Europe in the Context of the Accession Process**", organised by the **BG Presidency**. Moreover, a session of the 13-14 June 2018 meeting of the EU Network of NREMs was dedicated to the Western Balkans, in continuation with the work carried out with the BG Presidency and SEE Coordinators in the context of EU-Western Balkans relations. The EU Western Balkans Strategy, which recognises the importance of cracking down on the business model of organised crime and trafficking in human beings, is important in the context of ensuring coherence and consistency of EU action to address trafficking in human beings within and outside the EU.

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<sup>146</sup> EU statements and relevant information on such processes are available at <http://ec.europa.eu/anti-trafficking/>.

<sup>147</sup> COM(2018) 65 final, available at: [https://ec.europa.eu/commission/sites/beta-political/files/communication-credible-enlargement-perspective-western-balkans\\_en.pdf](https://ec.europa.eu/commission/sites/beta-political/files/communication-credible-enlargement-perspective-western-balkans_en.pdf).

## **7.2. EU Civil Society Platform and ePlatform against trafficking in human beings**

The Anti-Trafficking Directive acknowledges **the role of the civil society and encourages Member States to work closely with civil society organisations**, including working with trafficking victims, in policymaking initiatives, information and awareness-raising campaigns, research and education programmes and in training, as well as in monitoring and evaluating the impact of anti-trafficking measures.

The civil society continues to be a key partner in the joint efforts to address trafficking in human beings, its contribution is acknowledged and valued, and building and strengthening partnerships has been at the core of EU agenda since 2012.

The Platform was launched in 2013 as a key deliverable of the EU Strategy (Priority D, Action 3), and **currently brings together over 100 participants across the EU and beyond**. Further to the first open call for expression of interest to participate in the Platform, throughout the years open calls for expression of interest have been launched targeting: civil society organisation based in selected non-EU countries; working especially on child victims of trafficking as well as to ensure geographical balance, including organisations legally based in all EU Member States. The Platform is complemented by a further online ePlatform, launched in 2014 to include further participants overcoming logistical and budget limits, as well as to give continuity to the discussions carried out in the meetings in Brussels, foster information exchange and facilitate dissemination.

The Platform regularly meets twice per year, including in joint session with the EU Network of National Rapporteurs and/or Equivalent Mechanism, and meetings are organised by the Office of the EU Anti-trafficking Coordinator. The joint sessions, as well as the process through which civil society contributed with input based on their experience on the ground to the sources of information of this report, described previously in Section 1.3, must be placed in the context of the joint efforts to facilitate the close cooperation of all relevant actors at national level required by the Anti-Trafficking Directive.

Further contributions emerged from the discussions and exchanges that took place during the biannual meetings, which include parallel workshops tackling various aspects of anti-trafficking action, and plenary sessions with guest speakers on specific topics, such as victims' rights, with a focus on violence against women and girls, with the participation of Ambassador Mara Marinaki, EEAS Principal Adviser on Gender and on the Implementation of UNSCR 1325 on Women, Peace and Security, as well as compensation of victims, with the participation of the Special Advisor for the compensation of victims of crime, Ms Joëlle Milquet, as well as speakers from European Commission services responsible for relevant areas. In this context, sessions on navigating EU funding instruments, as well as on key topics, such as the EU-UN Spotlight Initiative on violence against women and girls, were organised.

## **7.3. Working with EU Agencies**

The fight against trafficking in human beings in the EU for all forms of exploitation, including sexual and labour exploitation, as well as all forms of child trafficking remains one of the priorities of the EU policy cycle for organised and serious international crime 2018-

2021, adopted by the Council on 18 May 2017<sup>148</sup>. This is in line with Commission's policy priorities and the Commission continues to support EU Agencies in their efforts.

A substantial part of the work delivered since the first progress report on coordination involves seven key EU Justice and Home Affairs Agencies<sup>149</sup>, in line with the 2011 Joint Statement signed by the Heads of these agencies. As elaborated below, this statement has been renewed: on 13 June 2018, ten agencies signed a Joint Statement of commitment (see the section below). In their respective areas of work, EU Agencies have conducted a broad number of activities addressing different aspects of the trafficking phenomenon, in accordance with their respective mandates. The details are included in the following pages.

### **2017 Communication Deliverables**

#### **Joint Statement of Commitment by Ten EU Agencies<sup>150</sup>**

On 13 June 2018, the Heads of the European Asylum Support Office (EASO), European Police Office (Europol), European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (eu-LISA), European Monitoring Centre for Drugs and Drug Addiction (EMCDDA), EU Judicial Cooperation Unit (Eurojust), European Institute for Gender Equality (EIGE), European Border and Coast Guard Agency (Frontex), EU Agency for Fundamental Rights (FRA), EU Agency for Law Enforcement Training (CEPOL), and the European Foundation for the Improvement of Living and Working Conditions (Eurofound) signed the Joint Statement of commitment to working together to address trafficking in human beings.

The Joint Statement is a key action set forth in the 2017 Communication. This commitment builds up on the efforts conducted since the 2011 Joint Statement on trafficking, adopted by seven Justice and Home Affairs agencies under the EU Strategy.

In the 2018 Joint Statement, the ten signatory agencies stress the importance of an enhanced multiagency approach, commit to countering the culture of impunity and enhance the focus on prevention. In line with the EU legal and policy framework, the Joint Statement adopts a gender specific and child sensitive approach to addressing this grave violation of human rights and serious form of organised crime.

#### **7.3.1. EU Agency for Law Enforcement Training (CEPOL)**

In the context of its mandate to provide law enforcement training and learning, CEPOL reports that between 2015 and 2017, it implemented four residential courses, three online modules, and one online course on trafficking in human beings. Relevant activities have also taken place in the CEPOL Exchange Programme. In total, **1 348 participants were trained by CEPOL**. By the end of 2018, CEPOL will also have completed four residential courses, one online course, one online module, two webinars and its Exchange Programme. Furthermore, the EU Anti-trafficking Coordinator participated in such training, as part of CEPOL courses on the EU anti-trafficking legal and policy framework, with a highlight on the priorities of the 2017 Communication, via webinar, online training module and residential training.

<sup>148</sup> <https://www.europol.europa.eu/crime-areas-and-trends/eu-policy-cycle-empact>.

<sup>149</sup> CEPOL, EASO, EIGE, Europol, Eurojust, FRA, Frontex.

<sup>150</sup> The Statement can be found at: [https://ec.europa.eu/anti-trafficking/eu-policy/heads-ten-eu-agencies-commit-working-together-against-trafficking-human-beings\\_en](https://ec.europa.eu/anti-trafficking/eu-policy/heads-ten-eu-agencies-commit-working-together-against-trafficking-human-beings_en).

### **7.3.2. European Asylum Support Office (EASO)**

EASO is mainstreaming the aspects of trafficking in human beings related to asylum in all its activities: tools and information have been developed to ensure that officials increase their awareness about the detection and referral of trafficking victims; this includes the introduction of modules on trafficking in human beings in its training activities.<sup>151</sup>

In 2014, EASO coordinated a joint report by the Justice and Home Affairs Agencies to address trafficking in human beings in areas in which they joined forces to support the implementation of the EU Strategy.<sup>152</sup> Since 2015, EASO has established a specialised team working on vulnerable groups within the Asylum Support Unit. Furthermore, since 2014, EASO has been holding national conferences and experts meetings on trafficking in human beings. Areas of focus have included practical cooperation on Nigeria, Libya as a country of transit with a particular focus on trafficking in human beings and forced and child marriage as a possible form of exploitation, as well as identification of victims who may be in need of international protection. EASO is now integrating its trafficking in human beings network in the new EASO Vulnerability Expert Network, in view of its relevance to vulnerable persons.

In its operational role, EASO has supported the work of the Greek and Italian authorities in the hotspots. Furthermore, EASO is working with Member States on a common methodology to report statistics for its ‘Early warning and Preparedness System’ to analyse trends in trafficking within flows of asylum applicants in the EU. EASO took over from UNICEF a social media monitoring project previously conducted by UNHCR, which includes information on migrant smuggling, trafficking in human beings and secondary movements.

### **7.3.3. European Institute for Gender Equality (EIGE)**

In 2014, the European Institute for Gender Equality (EIGE) published an Analysis of the Victims' Rights Directive (Directive 2012/29/EU) from a gender perspective. In 2016, EIGE started to cooperate closely with other JHA Agencies in the field of trafficking in human beings. EIGE updated its Strategic Framework on Violence against Women 2016 – 2018, to assist the Member States in meeting their obligations in the implementation of the Anti-Trafficking Directive.

In October 2018, EIGE, in cooperation with the Office of the EU Anti-Trafficking Coordinator, published a **report on gender-specific measures in anti-trafficking actions**, which undertakes a comparative analysis of the Victims’ Rights Directive and the Anti-Trafficking Directive, from the perspective of women and girls trafficked for sexual exploitation. The report provides guidance for a gender-sensitive implementation of the Directive’s measures to better identify, help and support victims of trafficking in human beings, and indicators to evaluate the effectiveness and impact of their implementation.

Other aspects of EIGE’s work relevant to trafficking in human beings include a **measurement framework of violence against women for the Violence domain of the Gender Equality Index**, including an indicator on trafficking in women.

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<sup>151</sup> This includes the training module “Trafficking in Human Beings and International Protection,” following the “train the trainers” methodology, and modules on Gender, Gender identity and Sexual Orientation and Interviewing Children and Vulnerable Persons. EASO also introduced a section on trafficking in human beings in the training module on “Country of Origin Information”, and is developing a module on the reception conditions on vulnerable persons, in particular of trafficking victims.

<sup>152</sup> <https://www.easo.europa.eu/sites/default/files/public/Press-release-EU-agencies-issue-report-on-joint-THB-actions.pdf>.



#### **7.3.4. EU Judicial Cooperation Unit (Eurojust)**

**Eurojust facilitates Member States’ operational work.** Apart from the discussions between the representatives of the National Desks concerned, Eurojust provides practitioners with cooperation tools in cross-border cases: coordination meetings, coordination centres and Joint Investigation Teams (JITs). The number of registered cases, coordination and the number of JITs has risen steadily. Cooperation with non-EU countries has also increased. To support efforts towards increasing financial investigations, the Operations Manual of Eurojust, drafted between 2015 and 2017, contains instructions on including asset recovery/financial aspects when preparing for a coordination meeting or coordination centre. In the Guidelines for deciding which jurisdiction should prosecute and on operational work, such as the setting of JITs, Eurojust has taken into account as particularly significant factors in cases of trafficking in human beings the interests and protection of the victims. In the period 2015–2017 Eurojust awarded to JITs EUR 356 885 (2015), EUR 448 415 (2016) and EUR 507 358 (2017).

In January 2017, Eurojust published the **Final Evaluation Report on the Implementation of the Eurojust Action Plan against trafficking in human beings 2012–2016**, which highlights the challenges encountered in investigations and prosecutions.<sup>153</sup> It also includes a number of good practices, including multidisciplinary approaches involving NGOs, tax departments, immigration services, and law enforcement agencies; building victims’ confidence; and the establishment of JITs as a way to solve evidence-related problems.

In December 2015, Eurojust published a report entitled **“Prosecuting trafficking in human beings for the purpose of labour exploitation”**,<sup>154</sup> which analysed the challenges posed by transnational cooperation and parallel judicial proceedings in this field, as well as the assistance possibilities offered by Eurojust to improve coordination and promote joint investigations.

#### **7.3.5. European Police Office (Europol)**

Europol’s priorities are aligned with the goals defined under the EU Policy Cycle EMPACT Project on trafficking in human beings: (i) increase the operational exchange of information and support to EU Member States’ high priority cases; (ii) enhance financial investigations and asset recovery activities within trafficking in human beings investigations; (iii) focus on the online component of investigations and how the internet and dark-net enable trafficking in human beings; (iv) focus on ID Fraud and how it facilitates this crime; (v) focus on sexual and labour exploitation, child-trafficking and other forms of exploitation such as forced criminality and forced begging; (vi) focus on threats from third countries and on the links between facilitated illegal immigration and trafficking in human beings; and (vii) support prevention activities and capacity building.

**Within its mandate, Europol supports EU law enforcement authorities and other partner organisations to tackle trafficking in human beings** through analysing information

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<sup>153</sup> Challenges include gathering of evidence and the excessive reliance on victims’ statements, issues related to conflicts of jurisdiction, execution of European Arrest Warrants, the use of cross border investigation techniques, and the difficulties in uncovering and confiscating the profits generated by trafficking in human beings and proving money laundering by OCGs and the differences in substantive and procedural laws of Member States. <http://www.eurojust.europa.eu/press/PressReleases/Pages/2017/2017-02-03.aspx>.

<sup>154</sup> [https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/report\\_on\\_prosecuting\\_thb\\_for\\_the\\_purpose\\_of\\_labour\\_exploitation\\_en\\_1.pdf](https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/report_on_prosecuting_thb_for_the_purpose_of_labour_exploitation_en_1.pdf).

and intelligence; facilitating operational meetings between partners involved in cross-border cases; providing expertise and training to law enforcement authorities to support cases and share knowledge; deploying Europol mobile offices to the field for operations, giving live access to Europol's secure information exchange network and databases; and providing support to judicial cooperation and for the tackling of other related criminal activities uncovered in the course of investigations. The Analysis Project Phoenix, composed by specialists and analysts, supports live investigations involving at least two EU Member States.

As a result, many networks have been cracked down and victims safeguarded. For example, only in 2017, Europol coordinated 7 Joint Action Days with a total of 21 operational actions supported. 132 operational reports were produced in the framework of these Joint Action Days. In total, the Joint Action Days led to 604 new cases/investigations and identification of 1,191 trafficking victims<sup>155</sup>. Under certain criteria, Europol can offer funding for operational meetings among investigators. Under the EU Policy Cycle for Serious and Organised Crime there are also calls for proposals to support the implementation of EMPACT activities.

### **7.3.6 EU Agency for Fundamental Rights (FRA)**

The **EU Agency for Fundamental Rights (FRA)** notes the wide positive feedback to the Handbook on Guardianship for children deprived of parental care, published as a deliverable of the EU Strategy 2012-2016<sup>156</sup>, which is also used by national authorities in relevant trainings.

In its research on fundamental rights at airports and land border crossing points, FRA noted limited specific guidance and training provided to border guards on identifying victims of trafficking, while also highlighting promising practices, such as the cooperation with air carriers.<sup>157</sup> In its opinions **on the use of IT systems in the field of security and justice**, FRA underlined the role that IT systems could play in detecting and protecting child victims.<sup>158</sup> FRA's research on **biometrics in large scale IT systems and fundamental rights**, addressed the extent to which staff and service providers of diplomatic missions and consular posts take appropriate measures for presumed victims of trafficking during visa procedures.<sup>159</sup>

In January 2015, FRA published the first **comprehensive assessment of support services throughout the EU for victims of crime, including trafficking**.<sup>160</sup> The report highlighted that access to victim support services is of crucial importance for their ability to exercise their right to effective access to justice. FRA presented a **report on severe forms of labour exploitation in June 2015**, which mapped risk factors that may lead to exploitation,

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<sup>155</sup> 2017 Europol Consolidated Annual Activity Reports (CAAR), <https://www.europol.europa.eu/publications-documents/consolidated-annual-activity-reports-caar>

<sup>156</sup> <http://fra.europa.eu/en/publication/2015/guardianship-children-deprived-parental-care> See First Progress Report p. 22.

<sup>157</sup> <http://fra.europa.eu/en/publication/2014/fundamental-rights-airports-border-checks-five-international-airports-european> and <http://fra.europa.eu/en/publication/2014/fundamental-rights-land-borders-findings-selected-european-union-border-crossing>.

<sup>158</sup> See Opinion on the impact on fundamental rights of the proposal for a revised Eurodac Regulation, <http://fra.europa.eu/en/opinion/2017/impact-proposal-revised-eurodac-regulation-fundamental-rights>; Opinion on Fundamental rights and the interoperability of EU information systems: borders and security, <http://fra.europa.eu/en/publication/2017/fundamental-rights-interoperability>; Opinion on Interoperability and fundamental rights implications, <http://fra.europa.eu/en/opinion/2018/interoperability>.

<sup>159</sup> Under watchful eyes: biometrics, EU IT systems and fundamental rights, <http://fra.europa.eu/en/publication/2018/biometrics-rights-protection>.

<sup>160</sup> <http://fra.europa.eu/en/publication/2014/victims-crime-eu-extent-and-nature-support-victims>.

preventive actions taken by Member States, and victims' access to justice.<sup>161</sup> Further research is ongoing based on interviews to both EU and non-EU migrant workers<sup>162</sup>. A final report will be published in 2019.

FRA has also addressed trafficking in the **research, advisory and capacity building work on the fundamental rights situation of people in large migration movements**, especially Italy and Greece.<sup>163</sup> Since April 2016, FRA deployed a staff member to the hotspots in Greece and undertook missions to Italy. In cooperation with EL authorities, international organisations and civil society, FRA developed indicators concerning sexual and gender based violence and Standard Operating Procedures, and embedded a module on trafficking in its training on child protection for Reception and Identification Centres staff in Greece. In Italy, FRA's awareness raising and capacity building activities focused on the identification, treatment and referral of vulnerable people, including through workshops on good practices.

### **7.3.7. European Border and Coast Guard Agency (Frontex)**

The European Border and Coast Guard Agency supports Member States with screening, debriefing, identification and fingerprinting of migrants. Officers deployed by the agency refer and provide initial information to people who need, or wish to apply for, international protection, cooperating with the European Asylum Support Office and national authorities.

In 2017, the European Border and Coast Guard Agency started to deliver **awareness sessions/workshops on trafficking in human beings within Joint Operation Triton (now Themis) and Joint Operation Poseidon**. In Greece, Debriefing Experts are interviewing potential victims of trafficking.

The European Border and Coast Guard Agency has developed a number of **Handbooks to help border professionals in the detection and disruption of trafficking of human beings and migrant smuggling**: the Vega Handbook on Airports; the VEGA 'Countermeasures' Handbook, first published in 2012, was reviewed in 2017; Frontex Handbook on Risk Profiles on trafficking in human beings; and the Handbook VEGA Children at airports. The VEGA Handbook for Land Borders and the SBS VEGA Handbook: Children at Sea Borders are forthcoming.

The agency's **training unit has developed specific content relating to trafficking** and is working towards additional courses for its portfolio<sup>164</sup>, including for border guard agencies from the Western Balkans and Eastern Partnership countries.

The **Africa-Frontex Intelligence Community (AFIC)** was set up in 2010 to provide a framework for regular information sharing in the field of migrant smuggling and other border security threats. Funded through the Instrument contributing to Stability and Peace, since

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<sup>161</sup> <http://fra.europa.eu/en/publication/2015/severe-labour-exploitation-workers-moving-within-or-european-union>.

<sup>162</sup> <http://fra.europa.eu/en/publication/2018/exploited-domestic-workers> and <http://fra.europa.eu/en/publication/2018/protecting-migrant-workers-exploitation-eu>

<sup>163</sup> See FRA migration focus report (May 2016) at <http://fra.europa.eu/en/publication/2016/asylum-and-migration-european-union-2015> and <http://fra.europa.eu/en/opinion/2016/fra-opinion-hotspots-approach>.

<sup>164</sup> European Border and Coast Guard Agency has developed a training manual, including a toolkit in cooperation with Member States' experts, EU agencies/NGOs and international organisations. The European Border and Coast Guard Agency is currently revising the Anti-Trafficking in Human Beings Train the Trainers manual with a view to enhancing existing training and providing more targeted support.

September 2017, the European Border and Coast Guard Agency has been implementing the project to strengthen the capacity of beneficiary countries in the AFIC.

#### **7.4. The external dimension**

**The external dimension is an integral part of the EU policy framework to address trafficking in human beings and one of its pillars**<sup>165</sup>. In this context, the EU Anti-trafficking Coordinator provides strategic policy guidance to promote a coherent and coordinated approach to address trafficking in human beings both within the **EU and in relation to non-EU countries**, and monitors the use of all appropriate forms of EU action. As a complex phenomenon, trafficking in human beings continues to be systematically addressed in key relevant policy instruments, including in the context of migration, ranging from security to migration, justice, equality, anti-discrimination, fundamental rights, employment, and development, such as: the European Agenda on Migration<sup>166</sup>, the European Agenda on Security<sup>167</sup>, the Global Strategy for the EU Foreign and Security Policy<sup>168</sup>, the Action Plan on Human Rights and Democracy<sup>169</sup>, the Action Plan on Gender Equality and Women's Empowerment<sup>170</sup> and the Strategic Engagement for Gender Equality<sup>171</sup>. Many EU external policies, agreements, partnership and dialogues with non-EU countries embed trafficking in human beings, among others: the Khartoum and Rabat processes, the priority domains of the follow up to the Joint Valletta Action Plan.

As an example, the Marrakesh Action Plan, adopted in the framework of the Rabat Process on 2 May 2018, addresses trafficking in human beings under two objectives (*Objectives 7 and 8*). **In line with the policy priorities set forth by the 2017 Communication stepping up EU action to address** trafficking in human beings, the relevant actions set forth focus on improving detection of victims, including in the area of integrated border management, enhance judicial and law enforcement cooperation and information sharing, in particular on financial investigations, continue upholding and supporting the implementation of the UNTOC Convention and Palermo Protocols, and provide appropriate assistance and protection to victims, especially women and children.

On the initiative of the BG Presidency, and in line with Commission policy priorities, a seminar focused on trafficking of women and children, disproportionately affected, was organised on 19-20 June 2018 in close cooperation with the ACP Secretariat, in the context of the ACP- EU Dialogue on Migration and Development. The agenda and conclusions included a strong focus on countering the culture of impunity, stopping the profits involved in the crime, and addressing all parts of the trafficking chain.

The EU has provided funding to anti-trafficking actions in non-EU countries through its external financing instruments, such as the EU Trust Fund for Africa, the Development Cooperation Instrument and the European Fund for Development. African countries were the main beneficiary countries but actions have also been implemented in Asia and Latin

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<sup>165</sup> The basic framework is set in the 2009 Action Oriented Paper on strengthening the EU external dimension against trafficking in human beings (AOP) and in the Global Approach to Migration and Mobility (GAMM).

<sup>166</sup> [https://ec.europa.eu/anti-trafficking/eu-policy/european-agenda-migration\\_en](https://ec.europa.eu/anti-trafficking/eu-policy/european-agenda-migration_en).

<sup>167</sup> [https://ec.europa.eu/anti-trafficking/eu-policy/european-agenda-security\\_en](https://ec.europa.eu/anti-trafficking/eu-policy/european-agenda-security_en).

<sup>168</sup> [http://europa.eu/globalstrategy/sites/globalstrategy/files/pages/files/eugs\\_review\\_web\\_13.pdf](http://europa.eu/globalstrategy/sites/globalstrategy/files/pages/files/eugs_review_web_13.pdf).

<sup>169</sup> [https://ec.europa.eu/anti-trafficking/eu-policy/action-plan-human-rights-and-democracy-2015-2019\\_en](https://ec.europa.eu/anti-trafficking/eu-policy/action-plan-human-rights-and-democracy-2015-2019_en).

<sup>170</sup> [https://ec.europa.eu/anti-trafficking/eu-policy/joint-staff-working-document-gender-equality-and-womens-empowerment-transforming-lives\\_en](https://ec.europa.eu/anti-trafficking/eu-policy/joint-staff-working-document-gender-equality-and-womens-empowerment-transforming-lives_en).

<sup>171</sup> <http://ec.europa.eu/anti-trafficking/eu-policy/strategic-engagement-gender-equality-2016-2019>.

America. The programmes ranged from a short-term capacity building actions, to more comprehensive actions aiming at reinforcing prevention, prosecution and protection frameworks. Furthermore, **in their reporting, the European Migration Liaison Officers (EMLOs) are tasked to also specifically address the situation of trafficking in human beings in the countries they are posted in.** The Commission continues to work in close cooperation with EMLOs and EU Delegations in key origin countries, including with the support of relevant EU Agencies. As an example, in this context, contacts have been promoted between Europol Analysis Project Phoenix and relevant national authorities in Nigeria, to improve law enforcement cooperation.

**The EU Western Balkans Strategy mentions that organised crime's foothold on the Western Balkans remains strong and stresses the importance of cracking down on the business model of organised crime and trafficking in human beings.** It gives further guidance: the authorities must dismantle criminal networks and their economic bases more effectively, making systematic use of financial investigations and applying more targeted tools and enhanced judicial cooperation. This is of paramount importance with respect to our ultimate goal, which remains eradicating the crime countering the culture of impunity for perpetrators throughout the trafficking chain. Coordination work to facilitate political dialogue between EU and non-EU national coordination bodies against trafficking in human beings is ongoing.

In line with the European Neighbourhood Policy, revised in 2015, the Commission committed to further address the challenges of organised crime, including trafficking in human beings. This engagement has been translated in technical assistance in both Eastern and Southern Neighbourhood with the development of dedicated activities (e.g. in support to the victims, capacity-building activities to national authorities with a special focus on financial investigation). In addition, in the joint declaration with 20 deliverables adopted in 2017, a specific trafficking in human beings objective has been integrated, notably with the view to adopt sexual and gender based violence/domestic violence legislation in all **Eastern Partnership** countries and to have effective referral mechanisms in place for victims of violence.

At the margins of the 5<sup>th</sup> African Union/European Union Summit (29-30 November 2017, Abidjan) discussions were held to take concrete steps to address the dramatic situation of migrants and refugees victims of criminal networks, in particular inside Libya. It was decided to put in place a **joint EU-AU-UN Task Force** to save and protect lives of migrants and refugees along the routes and in particular inside Libya, accelerating the assisted voluntary returns to countries of origin, and the resettlement of those in need of international protection, as part of the overall joint work to dismantle traffickers and criminal networks<sup>172</sup>. Since then, the joint AU-EU-UN work in Libya helped to assist more than 37,000 persons to return safely to their countries of origin and 1,536 persons in need of protection have been evacuated to third countries through an Emergency Transit Mechanism.

The **CSDP focus in Libya** is to assist in the building of State security structures, in particular in the areas of border management, law enforcement and criminal justice with a view to contributing inter alia to efforts to disrupt organised criminal networks involved in illicit activities, notably smuggling of migrants, human trafficking and terrorism in Libya and the Central Mediterranean region.

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<sup>172</sup> [http://europa.eu/rapid/press-release\\_STATEMENT-17-5029\\_en.htm](http://europa.eu/rapid/press-release_STATEMENT-17-5029_en.htm)

In that regard the presence of **EUNAVFOR MED Operation Sophia (Op Sophia)** at sea has played a decisive role in improving overall maritime security in the Central Mediterranean. The operation's broad mandate, allowing to disrupt migrant smuggling, human and arms trafficking and to conduct surveillance activities, including in relation to oil smuggling, has effectively turned Op Sophia into a unique multi-faceted maritime security provider. To achieve accurate situational awareness on the evolution of the trafficking and smuggling activities and ensure complementarity of efforts with other actors, the operation has been able to rely on an extensive network put in place over the past three years. This has helped enhance cooperation with a wide range of organisations involved in the fight against smugglers and traffickers. Op Sophia has so far contributed to the apprehension of 151 suspected smugglers and traffickers handed over to the relevant Italian authorities and has neutralised some 551 assets. In parallel, whilst the operation has only been in a position to inspect three vessels under the provisions of UNSCR 2420 (which led to seizures of prohibited items), more than 1,700 hailing and more than 100 friendly approaches have been conducted, thereby allowing a better understanding of how routes can be used by smugglers and traffickers on the high seas. Since the launch of training as an additional task in September 2016, Operation Sophia has been able to train more than 237 personnel of the Libyan coast guard and navy both at sea and in member states facilities. In addition, a pilot project for a Crime Information Cell (CIC) pilot project was established as part of ongoing efforts to strengthen the nexus between internal and external security and between CSDP/JHA actors. The CIC is a hub within the Operation Sophia, located on the flagship, where relevant actors are co-located to facilitate cooperation and timely, two-way information exchange on issues relating to crime prevention, investigation and prosecution, in accordance with the relevant legal mandates of all parties. The CIC pilot project launched on 5 July for a trial period of six months, and is staffed by representatives from Europol, the European Border and Coast Guard Agency (EBCGA) and from EUNAVFOR MED Operation Sophia.

**EUBAM Libya's** return to Tripoli has resulted in an increased support to the Libyan authorities in the areas of border management, law enforcement and criminal justice with the clear intent of further operationalising and expanding its engagement to contribute to the fight against criminal networks involved in illicit activities. In that regard EUBAM has supported the ongoing development of a Libyan integrated border management strategy, the creation of a coordination mechanism for Libyan law enforcement agencies involved in fighting organised crime and will further, in the new mandate, address also financial investigations and financial crimes as being a conducive and vital element of organised crime as well as enhancing law enforcement-prosecutor cooperation.

### **2017 Communication Deliverables**

In the context of the **EU-UN Spotlight Initiative to eliminate violence against women and girls**, the first project entitled "Safe and Fair" was launched this year in Bangkok, by ILO and UN Women. It aims to improve the legal, policy and institutional frameworks in the ASEAN region, ensure better access to information and quality services and thus empower female migrant workers, making them less vulnerable to exploitation, trafficking and abuse. Furthermore, the EU Civil Society Platform meeting of 28-29 May 2018 included a dedicated workshop, to encourage civil society engagement and sharing of positive relevant experiences of cooperation with relevant actors in non-EU countries. This is further in line with the cross cutting priority of supporting anti-trafficking objectives and priorities, including projects taking particular account of the gender dimension of the phenomenon.

## **8. Crosscutting Priorities**

In addition to the three specific priorities, two cross-cutting priorities have been identified to continue widening the knowledge base and improving understanding of this complex phenomenon, and to provide appropriate funding in support of anti-trafficking initiatives and projects.

For widening the knowledge base two studies have been launched: 1) Study on the economic, social and human costs of trafficking and 2) Study on the impact of the EU approach to combating trafficking for sexual exploitation.<sup>173</sup>

### **8.1. Statistical Data Collection**

The 2017 Communication lays down that understanding the nature, scale and costs of the crime is key to ensuring appropriate action at the EU level to prevent the phenomenon of trafficking in human beings from happening. Research, reliable and comprehensive statistics are crucial in identifying and addressing trends, developing evidence-based policy, and measuring the impact of individual initiatives. With the implementation of the Strategy, sound basic data on trafficking in human beings have been gathered at EU level, but this needs to be developed further. The Commission will continue to develop data collection methodologies to produce comparable statistics on trafficking in human beings within the EU. It will also follow up the EU-wide survey on the availability of data concerning trafficking in human beings in EU countries that was conducted in 2017.

#### **The Council of Europe Group of Experts on Trafficking in Human Beings<sup>174</sup> on Statistics**

GRETA has stressed the need for developing and maintaining comprehensive and coherent statistics regarding victims, which should be collected from all main actors and allow disaggregation concerning sex, age, type of exploitation, country of origin and/or destination. This should be accompanied by all the necessary measures to respect the right of data subjects to personal data protection, including when NGOs working with victims are asked to provide information for the national database.

The 2017 collection of data on trafficking in human beings covering reference years 2015-2016 (and 2014 as relevant) for the second Commission progress report is based on Directive 2011/36/EU and has been part of the EU effort to improve the quality and availability of trafficking in human beings data. The objective of this data collection and analysis is to support the development of the quality and comparability of data on trafficking in human beings in EU Member States, with due regard to the EU legal and policy approach<sup>175</sup>, namely

<sup>173</sup> Tender available at: <https://etendering.ted.europa.eu/cft/cft-display.html?cftId=3932>

<sup>174</sup> <https://rm.coe.int/greta-2018-1-7gr-en/16807af20e>.

<sup>175</sup> Directive 2011/36/EU emphasises that 'the Union should continue to develop its work on methodologies and data collection methods to produce comparable statistics on trafficking in human beings'. More specifically, Article 19 of the Directive stresses the importance of gathering statistics, stating that 'Member States shall take the necessary measures to establish national rapporteurs or equivalent mechanisms. The tasks of such mechanisms shall include the carrying out of assessments of trends in trafficking in human beings, the measuring of results of anti-trafficking actions, including the gathering of statistics in close cooperation with relevant civil society organisations active in this field, and reporting.' Article 20 of the same Directive specifies that 'in order to contribute to a coordinated and consolidated Union strategy against trafficking in human beings, Member States shall facilitate the tasks of an anti-trafficking coordinator (EU ATC). In particular, Member States shall transmit to the EU ATC the information referred

to support the victim centred, gender specific and child sensitive approach. It builds on earlier data collections carried out for the **Eurostat Statistical Working papers (2013<sup>176</sup> and 2014, updated in 2015<sup>177</sup>) and the first progress report, as well as on the replies of Member States to the data availability survey** carried out in 2017<sup>178</sup>. The data collection questionnaire updates the content of the previous Eurostat questionnaires by requesting further information for policy purposes.

Following consultations with the EU network of NREMs, on 10 July 2017, the questionnaire was sent by the Office of the EU Anti-Trafficking Coordinator to the NREMs, accompanied by "Guidance for the Reports to be submitted by the Member States as per Article 20 of Directive 2011/36/EU for the Second Report on the Progress made in the fight against trafficking in human beings" and by updated guidelines for data collection, including the indicators. The data collection guidelines were based on Eurostat guidelines for its second statistical working paper and were adapted, as relevant and appropriate, including also additional indicators and disaggregation requested due to the current socio-political context to support policy needs.

The replies by EU Member States were analysed with the support of Eurostat. Based on Eurostat's requests for clarifications, the Office of EU Anti-Trafficking Coordinator contacted NREMs. Received and processed data based on these exchanges have been sent to NREMs for their final validation. The confirmed data by EU Member States have been transmitted to an external contractor, Lancaster University, who carried out the data analysis and provided recommendations on a potential way forward. The results of this data collection are published in a study together with the progress report.

These initiatives form part of the EU efforts for making available data at EU level annually from the criminal justice system of Member States on trafficking in human beings collected regularly, based on the quality and availability of such data.

In addition, for the purpose of this second report, Member States refer to their initiatives to improve statistics and information on trafficking in human beings, including its victims. FR reports on its 2015 survey on data developed in partnership with the collective 'Together Against Trafficking in Human Beings' ('Ensemble contre la traite des êtres humains'), MIPROF and the National Observatory for Delinquance and Replies to Criminal Matters ('l'Observatoire National de la Délinquance et des Réponses Pénales', ONDRP) addressed to associations involved in identification, care and support to victims of trafficking in human beings in France, covering the number of victims, their gender, age and origin, the conditions of their exploitations and steps to be taken. Its results were published in June 2017, relating to the victims in the course of 2015.

Slovakia reported that in 2016 a unified statistical system for collecting data for presumed and identified victims of trafficking was put in place, where double counting does not occur. The

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to in Article 19, on the basis of which the EU ATC shall contribute to reporting carried out by the Commission every two years on the progress made in the fight against trafficking in human beings.'

<sup>176</sup> [https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/trafficking\\_in\\_human\\_beings\\_-\\_dghome-eurostat\\_en\\_1.pdf](https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/trafficking_in_human_beings_-_dghome-eurostat_en_1.pdf).

<sup>177</sup> [https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/eurostat\\_report\\_on\\_trafficking\\_in\\_human\\_beings\\_-\\_2015\\_edition.pdf](https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/eurostat_report_on_trafficking_in_human_beings_-_2015_edition.pdf).

<sup>178</sup> The data availability survey was later carried out by Eurostat via the national statistical authorities, who cooperated with the NREMs.



work done in recent years by the Spanish Counterterrorism and Organised Crime Intelligence Centre (CITCO) is also an example. CITCO's specific functions include management of the information supplied by the State Security Forces concerning trafficking for several forms of exploitation (sexual, labour, forced marriage, begging, criminal activities) from a twin standpoint: preventive and repressive. In the field of trafficking in human beings, the CITCO has concentrated on devising a data-collection system making it possible to use the information available on the phenomenon, initially the sexual aspect, while acting as a basic tool in elaborating strategic intelligence on the matter. Following approval of the Comprehensive Plan to Combat Trafficking of Women and Girls for sexual exploitation (2015-2018), the CITCO was given the specific task of updating and improve the database on trafficking in human beings, encouraging the incorporation of information from all administrations and from the organisations specialised in integral care for victims. Moreover, since 2014, the Centre has been designated as a focal point in this question, as backup to the National Human Trafficking Rapporteur.

## **8.2. National Estimates**

EU-wide data collection, based on the Directive 2011/36/EU, relates to gathering of statistics in close cooperation with relevant civil society organisations active in this field and reporting it to the EU Anti-trafficking Coordinator. The Commission first progress report notes with regard to EU-wide reported statistics that given the complexity of the phenomenon, there are solid grounds to expect that the actual numbers of victims of trafficking in the EU are indeed substantially higher. Registered victims of trafficking are those who are identified formally or are presumed to be victims of trafficking; however research demonstrates that there may be a high volume of hidden population.

In September 2017, the Dutch National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children and the United Nations Office on Drugs and Crime (UNODC) presented a research report that reflected the first reliable estimate of the extent of trafficking in human beings in the Netherlands, via multiple systems estimation (MSE) methodology<sup>179</sup>. According to this research report, in the Netherlands, the estimated annual number of victims of trafficking lies around 6 250. This is about five times higher than the number of registered victims, meaning that many victims stay out of sight of authorities and support agencies.

Based on this research, in 2018 for the first time the Dutch National Rapporteur on Human Trafficking released a substantiated national estimate of the true number of victims of human trafficking, in the publication 'Victims of Human Trafficking Periodical Report 2012-2016'<sup>180</sup>. According to this report, domestic sex trafficking is the most common form of human trafficking in the Netherlands: each year there are approximately 3 000 victims, accounting for 46% of all human trafficking victims. Almost half of these (1 320) are minor girls. This group is also the least visible: only 11% is actually identified as a victim, and thus receives help and care.

## **8.3. Funding**

**The 2017 Communication identifies as cross cutting action to support anti-trafficking objectives within and outside the EU, taking particular account of the gender dimension of**

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<sup>179</sup> [http://www.unodc.org/documents/research/UNODC-DNR\\_research\\_brief.pdf](http://www.unodc.org/documents/research/UNODC-DNR_research_brief.pdf).

<sup>180</sup> [https://www.dutchrapporteur.nl/binaries/FINAL\\_BNRM-Victims%20of%20Human%20Trafficking-%20Periodical%20Report%202012-2016\\_INTERACTIVE\\_tcm24-353879.pdf](https://www.dutchrapporteur.nl/binaries/FINAL_BNRM-Victims%20of%20Human%20Trafficking-%20Periodical%20Report%202012-2016_INTERACTIVE_tcm24-353879.pdf)

the phenomenon, high-risk groups, as well as high-risk sectors through various EU funding programmes. This approach took into consideration the **Commission's Comprehensive Policy Review of anti-trafficking projects, published in 2016** (see below for more information).

The Commission continued to **publish calls for proposals addressing trafficking in human beings under the Internal Security Fund and the Asylum Migration and Integration Fund**.

Addressing trafficking in human beings is proposed to be supported in the next Multiannual Financial Framework as well in the Commission's proposals for a new Border Management and Visa Instrument, the reinforced Asylum and Migration Fund and the reinforced Internal Security Fund,<sup>181</sup> to ensure prevention and fight against trafficking of human beings and identification,, support and protection of victims of trafficking in human beings.<sup>182</sup>

In close cooperation with relevant services, efforts are ongoing to ensure funded projects addressing trafficking in human beings or including a component on trafficking in human beings are in line with policy priorities. In this context, as an example, a gender perspective is integrated in relevant projects contributing to address trafficking in human beings in the Central Mediterranean route, including in the context of the EU Trust Fund for Africa and in the 2017 AMIF and ISF Police calls.

EU Justice and Home Affairs Agencies (Europol and Eurojust) received funding for their operational actions (see in part 7.3.).

#### **Comprehensive Policy Review of EC funded anti-trafficking projects**<sup>183</sup>

The study aimed at conducting a comprehensive review of European Commission funded anti-trafficking projects in order to enhance coordination, avoid duplication and provide a solid basis for coherent, cost-effective and strategic planning. It mapped and analysed the distribution of such projects according to their scope of intervention, geographic areas of intervention, fields, actors, target beneficiaries, funding level, types of output, policy recommendations and other relevant aspects. It further sought to identify and assess their contribution to the objectives of the EU anti-trafficking strategy, as well as to identify trends and emerging research and policy questions.

The final data set included 321 EC-funded projects with Commission funding of EUR 158.5 million. The projects examined were contracted to start between 2004 and 2015 and were awarded to 221 different principal grant holders in 62 different countries worldwide, including 26 EU Member States.

Two thirds of funded projects and EC funding was awarded to principal grant holders located in EU Member States and one third to principal grant holders located in non-EU countries.

<sup>181</sup> Please refer to the text of the proposals and for further information at:  
[https://ec.europa.eu/commission/publications/factsheets-long-term-budget-proposals\\_en](https://ec.europa.eu/commission/publications/factsheets-long-term-budget-proposals_en),  
[https://ec.europa.eu/commission/publications/migration-and-border-management\\_en](https://ec.europa.eu/commission/publications/migration-and-border-management_en) and  
[https://ec.europa.eu/commission/publications/security-and-defence\\_en](https://ec.europa.eu/commission/publications/security-and-defence_en).

<sup>182</sup> The staff working document accompanying the Commission's Impact assessment for its proposals for regulations (SWD(2018) 347 final) for the new DG HOME funding instruments have taken into account the policy aims trafficking in human beings.

<sup>183</sup> [https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/study\\_on\\_comprehensive\\_policy\\_review.pdf](https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/study_on_comprehensive_policy_review.pdf).

Just over half of funded projects were led by non-governmental organisations (NGOs) (52 %). Other principal grant holders included: State agencies, international organisations, and universities and other research organisations.

Of those awarded multiple funded projects, five have been awarded five or more [IOM (13); ICMPD (8); ILO (7); UNODC (6); and Save the Children Italy (5)]. One of these principal grant holders is a non-governmental organisation the rest are international organisations. The five principal grant holders received just over EUR 42.5 million of EC funding for these 39 funded projects (12 % of the total number of funded projects). This EUR 42.5 million is almost one third (27 %) of the total EC funding for the funded projects.

As well as the principal grant holder, many funded projects had additional partners contracted on the project. The majority of these partner organisations were not themselves principal grant holders for the funded projects, but 51 principal grant holders were also partners on other funded projects in the analysis Data Set. Eight of these principal grant holders were partners on five or more other funded projects (International Centre for Migration Policy development, International Labour Organisation, International Organisation for Migration, La Strada International, La Strada Czech Republic, the National Agency against Trafficking in Persons, On the Road and Payoke).

The highest proportion of funded projects and EC funding was allocated to funded projects, which did not focus on one specific form of exploitation, but rather covered multiple forms (44 % and 56 % respectively), followed by funded projects on child trafficking (23 % and 19 % respectively). Funded projects on child trafficking were awarded EUR 30.5 million. Funded projects on Labour exploitation received the third highest level of EC funding, worth EUR 22 million. A higher proportion of EC funding is awarded to funded projects on trafficking for labour exploitation (14 %) than to those on trafficking for sexual exploitation (7 %). This is despite the fact that an equal proportion of funded projects focus on trafficking for labour exploitation (12 %) as trafficking for sexual exploitation (14 %). The average EC funding per project on labour exploitation was double the average EC funding per project on sexual exploitation (EUR 569,308 and EUR 231,429 respectively).

Less than 20 % of funded projects are gender-specific, i.e. are on trafficking for sexual exploitation, or are on trafficking of women and children, or trafficking of women. These funded projects have the lowest average funding per project compared to those on other forms of exploitation, including labour exploitation, where the average funding per project is double that of funded projects on sexual exploitation (EUR 569,308 and EUR 231,429 respectively).

### **8.3.1. Funding for the period 2014-2017**

In their reports, many Member States refer to **national and EU funding for anti-trafficking initiatives during the period of 2014 and 2017**. National funding is directed for actions promoting victims assistance, support and protection, including shelters and provision of legal and psychosocial support. Member States report on the difficulties to calculate national funding allocated for anti-trafficking measures and activities, as institutions do not have a specific budget heading (e.g. BG, LV). Many Member States report on participating in European Commission funded projects, including in the previous years, as in the case of projects co-financed by ISEC, and currently by the Asylum Integration and Migration Fund (AMIF).

Based on identified national needs, in the 2014-2020 programming period EU co-funding is available for anti-trafficking objectives in the **national programmes under shared management** via the Asylum Integration and Migration Fund (AMIF), the Internal Security Funds - Police cooperation, preventing and combating crime, and crisis management (ISF-Police) and the ISF Borders and Visa (ISF Borders). The implementation of the programmes is ongoing. The interim evaluations of the AMIF, ISF Police and ISF Borders refer to trafficking in human beings.<sup>184</sup> Member States have included anti-trafficking objectives in their national AMIF programmes, including to address the needs of trafficking victims in the context of reception/asylum, voluntary return and integration measures, and capacity building. In ISF Police national programmes trafficking is mentioned in relation to the objectives of prevention and combatting crimes, victims support, exchange of information, and training. Under some national programmes of ISF Borders, trafficking is mentioned, among others, in relation to the identification of victims and information exchange.

Funds directly managed by Directorate General on Migration and Home Affairs have been made available for realising anti-trafficking objectives via the 2015 AMIF and ISF-Police call for proposals, and the 2017 and 2018 AMIF and 2017 ISF Police calls for proposals.

For the 2017 AMIF call, with respect to the priority for the integration of third country national victims of trafficking, for 8 proposals a grant agreement is under signature concerning EC funding up to 3.548.111 EUR. For the 2017 ISF Police call for proposal, for 4 proposals a grant agreement is under signature for a total budget of 1.293.361 EUR. Both 2017 calls took into account the strong gender dimension of the crime and the child sensitive approach, while calling for projects in line with the policy priorities of the European Commission.

**Horizon 2020 Work Programme 2018-2020** on "Secure societies- Protecting freedom and security of Europe and its citizens" Sub-topic (2018) includes trafficking in human beings under 'New methods to prevent, investigate and mitigate trafficking of human beings and child sexual exploitation – and on the protection of victims'.<sup>185</sup> The migration clusters of Horizon 2020 Work Programme 2018-2020 have included specific themes to address trafficking in human beings, in particular 'Europe in a changing world – Inclusive, innovative and reflective societies' included reference to trafficking in human beings in one of the topics on migration governance (MIGRATION-02-2018: Towards forward-looking migration governance: addressing the challenges, assessing capacities and designing future strategies)<sup>186</sup>.

The **European Structural Investment Funds** can provide also a possibility to support anti-trafficking initiatives in Member States, based on their identified needs.

Civil society decries a general scarcity of financial support for accommodation and social support to victims. Civil society submissions point to the scarce budgetary resources foreseen during adoption of national programmes. Furthermore, civil society notes the lack of sustainable funding, which does not allow for long-term planning. Additionally, the civil society calls for more funding allocated to direct support to services and less towards research

<sup>184</sup> COM(2018) 464 final; SWD(2018) 339 final, SWD(2018) 340 final and SWD(2018) 341 final.

<sup>185</sup> [http://ec.europa.eu/research/participants/data/ref/h2020/wp/2018-2020/main/h2020-wp1820-security\\_en.pdf](http://ec.europa.eu/research/participants/data/ref/h2020/wp/2018-2020/main/h2020-wp1820-security_en.pdf).

<sup>186</sup> <https://ec.europa.eu/research/participants/portal/desktop/en/opportunities/h2020/topics/migration-02-2018.html>.

activities. What is more, civil society calls for more accountability and traceability of funding from different national budget lines. Information on how funding is allocated and by which sources is not always accessible. Potential duplication of funding and lack of coordination is also noted. In addition, civil society submissions point out that while they are included in national action plans or national referral mechanisms, at times there is no funding allocation from the side of the government for ensuring implementation of actions attributed to the civil society. Finally, some civil society organisations note the difficulty raised by the requirement and application and auditing process for European Commission financing.

**It is thus important to continue using funding allocated by Directorate General on Migration and Home Affairs shared management funding via AMIF and ISF programmes, and via the available instruments, including directly managed grants and provided in various the European Commission funding instruments for measures to address trafficking in human beings.**

## ANNEX I

### UPDATE ON THE IMPLEMENTATION OF DIRECTIVE 2004/81/EC

Directive 2004/81/EC (“the Directive”) regulates the granting of a temporary residence permit to third-country national victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the authorities for the investigation and prosecution of the alleged traffickers<sup>187</sup>. Since its adoption in 2004, the EU has taken major steps to address trafficking in human beings, mainly revolving around the adoption of Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims<sup>188</sup>.

The Commission adopted two reports on the implementation of the Directive as per Article 16 thereof, in 2010<sup>189</sup> and 2014<sup>190</sup>. This annex<sup>191</sup> intends to provide an update of the latter, focussing on the specifics of the Directive rather than on the elements that are already covered by Directive 2011/36/EU. The way this update complements the second Progress Report and its accompanying staff working document materialises the connection between the two Directives and the overarching role of Directive 2011/36/EU. In fact, while the Directive sets out specific rules concerning residence permits and treatment of third-country nationals cooperating with the authorities, Directive 2011/36/EU applies as a horizontal framework to prevent and combat trafficking in human beings and protecting its victims, both EU and non-EU citizens. It further reinforces or expands some of the provisions contained in Directive 2004/81/EU. The two texts have therefore to be read jointly and their implementation has to be assessed as a whole.

*According to the latest Eurostat data<sup>192</sup>, 690 first residence permits<sup>193</sup> were granted in 2015, 963 in 2016 and 924 in 2017, while 12 Member States did not grant or report any in 2015-2016.*

#### First permits issued for victims of trafficking in human beings

*Last update: 29-08-2018*

	2015	2016	2017
<b>Belgium</b>	67	48	69
<b>Bulgaria</b>	0	0	0
<b>Czech Republic</b>	0	0	0
<b>Germany</b>	4	9	22
<b>Estonia</b>	2	0	0
<b>Greece</b>	3	1	0
<b>Spain</b>	78	141	127

<sup>187</sup> OJ L 261, 06/08/2004.

<sup>188</sup> OJ L 101, 15/4/2011.

<sup>189</sup> COM(2010) 493.

<sup>190</sup> COM(2014) 635.

<sup>191</sup> This update is based on Member States’ input until 23 July 2018 as well as on targeted consultations with the EU network of National Rapporteurs or Equivalent Mechanisms (NREMs) on Trafficking in Human Beings and the EU Civil Society Platform against Trafficking in Human Beings in December 2016. All Member States (MS) bound by the Directive have been given the opportunity to review the relevant factual information contained in this update. IE, DK and UK do not take part in the Directive. In this report, ‘MS’ means the MS bound by the Directive.

<sup>192</sup> <http://appsso.eurostat.ec.europa.eu/nui/submitViewTableAction.do> (as of 11 September 2018).

<sup>193</sup> Since UK, IE and DK are not bound by Directive 2004/81/EC, they have not been taken into account in the quoted total number of residence permits issued in 2015, 2016 and 2017.

<b>France</b>	46	75	113
<b>Croatia</b>	0	0	0
<b>Italy</b>	288	351	394
<b>Cyprus</b>	32	9	8
<b>Latvia</b>	0	0	0
<b>Lithuania</b>	0	0	0
<b>Luxembourg</b>	0	0	0
<b>Hungary</b>	0	0	0
<b>Malta</b>	0	0	14
<b>Netherlands</b>	137	119	153
<b>Austria</b>	0	0	0
<b>Poland</b>	17	171	13
<b>Portugal</b>	1	29	n/a
<b>Romania</b>	0	0	0
<b>Slovenia</b>	0	0	1
<b>Slovakia</b>	0	0	0
<b>Finland</b>	9	8	1
<b>Sweden</b>	6	2	9

Source: Eurostat

### 1. Targeted Consultations

The EU Action Plan against migrant smuggling (2015-2020)<sup>194</sup> included, under its pillar on prevention and protection of vulnerable migrants, the launch of consultations on the Directive by 2016, to gather targeted feedback on its implementation, identify existing challenges and envisage possible way forward. As a result, the Commission carried out consultations in December 2016 through a questionnaire and during a meeting of the EU network of National Rapporteurs or Equivalent Mechanisms (NREMs) on Trafficking in Human Beings and with the EU Civil Society Platform against Trafficking in Human Beings<sup>195</sup>.

The questionnaire focused on the usefulness, scope and actual implementation of the Directive to gather views and updates. The feedback on the purpose and use of the Directive was broadly positive. Overall NREMs did not consider the Directive as underutilised. When the Directive was considered as not used or used in a limited fashion, the following reasons were put forward: (i) lack of third country national victims in their country (ii) difficulties in identifying victims and/or prosecuting the suspects (iii) availability of other options, such as refugee status, family reunification, or humanitarian permits for instance. Interestingly, while

<sup>194</sup> COM(2015) 285 final.

<sup>195</sup> The EU network of National Rapporteurs and/or Equivalent Mechanisms on Trafficking in Human Beings was established following Council Conclusions in June 2009. In accordance with the Council Conclusions, each Member State was invited to designate a National Rapporteur or equivalent mechanism to participate in the Network with the scope of activity that includes collection of information and advising on trafficking in human beings. Furthermore, the role of the NREMs is elaborated in the Anti-trafficking Directive and NREMs have different statuses and structures; in particular, some Member States have established NREMs which are independent from the government, whereas the vast majority have NREMs which are part of the national administration. It is important to stress that neither the Council Conclusions nor the Anti-trafficking Directive refer to the concept of independence for the National Rapporteurs or Equivalent Mechanisms, but rather describe their tasks and reporting obligations. Those represented in the EU NREMs Network are, therefore, National Rapporteurs in their independent capacity as defined in national laws, as well as National Rapporteurs or equivalent mechanisms working for or representing the national authorities. A few Member States participate in the NREMs Network with both a national rapporteur and a national coordinator within the national administration.

confirming the need and value of the reflection period, several NREMs noted that in practice most victims did not use it and immediately knew whether they wanted to cooperate with the authorities and get a temporary residence permit or not. On the victim's cooperation with the competent authorities being a core condition under the Directive, most NREMs reiterated their support thereto. However, sometimes cooperation is not a condition for obtaining a residence permit, or residence permits on other grounds are still available for victims not willing to cooperate, such as permits based on humanitarian grounds or personal circumstances. Finally, there seems to be an emerging consensus on the need to think beyond the judicial phase and envisage long-term residence permits to victims, as an incentive to cooperate as well as a way to strengthen legal certainty. Some NREMs have merely expressed positive opinions while others have shared the national provisions already in place in this regard<sup>196</sup>.

**This feedback to the questionnaire was discussed during the meeting of the EU Network of NREMs on Trafficking in Human Beings**, which was held in Brussels on 5- 6 of December 2016 and gathered NREMs from 28 MS. The meeting was co-chaired by the Slovak Presidency of the Council of the European Union and the EU Anti-Trafficking Coordinator. The discussions shed light on additional issues to the input provided in writing, such as lack of training and lack of available data that further challenges the use of residence permits and the sharing of best practices, or the gap between the law and its actual implementation and the possible lack of incentives for victims to come forward.

**The Eighth Meeting of the EU Civil Society Platform** against Trafficking in Human Beings was held in Brussels on 6-7 December 2016. The Platform brings together non-governmental organisations from across the EU. The Directive was discussed in the context of workshops during the second day. Among the main criticisms, those which were more often stressed referred to the too short duration of the reflection period and the lack of consistency across Member States in this regard, the gender-blind nature of the Directive, the lack of data, and the need for a multi-sectorial approach for the identification of victim. The participants raised concerns over the limits inherent to the 'conditionality' aspect of the permit delivery as set out in the Directive, as victims are often too afraid to cooperate with the authorities and therefore tend to fall outside of the system. It was further noted that victims often see asylum as a preferable route respect to a residence status as a trafficking victim, and that cooperation between law enforcement and NGOs needs to be strengthened.

Besides, both consultations showed that only a few legislative changes directly linked to the Directive seemed to have occurred since 2014, with most of those having an impact on its implementation deriving from the transposition of Directive 2011/36/EU.

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<sup>196</sup> In BE a definitive residence permit can be granted to the victim at the end of the judicial proceedings. It is considered as a good practice as it facilitates the long-term integration of the victim as well as it gives more sense to his/her collaboration with the authorities. In FR when the suspect is convicted, the victim is automatically provided with a renewable 10-year residence permit. After the end of judicial proceedings, the victim is granted with a residence and work permit for 5 years, and after 5 years of residence, a permanent residence permit is granted. In DE, a new law adopted in 2015 improved the residence status of victims and legal certainty, including by the possibility of prolonging the residence permit due to humanitarian or personal reasons even after the completion of the criminal proceedings against the offender. In NL, when the victim has pressed charges and the prosecution results in a conviction of the perpetrator, the victim can obtain a non-temporary residence permit. If the prosecution continues for at least 3 years the victim can apply for continued stay, even if the criminal case is still pending or the charges are eventually dropped.



## **2. Member States' contributions**

Member States **provided an update on the main national legislative changes since 2014 as well major policy developments.** Out of the 18 Member States that replied to the requests for updates, four indicated no change in their legislation<sup>197</sup> and 14 passed on new relevant provisions<sup>198</sup>. Eight Member States did not reply<sup>199</sup> (as of 23 July 2018).

Overall, those contributions confirm that legislative changes directly linked to the Directive are limited but positively impact its implementation. In particular, some Member States have improved the definition and scope of the residence permits<sup>200</sup>, others have enacted or broadened the rights and obligations pertaining to the reflection period<sup>201</sup>, some have extended the role of reception centres<sup>202</sup> or aligned the duration of the residence permit with the Directive requirement<sup>203</sup>.

Besides, provisions pertaining to victim identification, provision of information, support, assistance and protection given to victims, including children, have been strengthened because of the transposition of Directive 2011/36/EU. For example, some Member States now include victims of trafficking in human beings who cooperate in criminal proceedings in their witness protection programs<sup>204</sup> or promote a more widespread use of telecommunications tools in proceedings<sup>205</sup>. Some others have strengthened the provisions related to victims who are unaccompanied minors<sup>206</sup>, whereas others have built comprehensive recovery and integration programmes and secured the access of the victims with a residence permit thereto<sup>207</sup>.

However, some minor changes may still indicate a step back in some Member States<sup>208</sup>. These might need to be further assessed.

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<sup>197</sup> AT, EL, MT, NL.

<sup>198</sup> BE, BG, CY, EE, FI, FR, HR, HU, LU, LV, PL, RO, SI, SK.

<sup>199</sup> CZ, DE, ES, IT, LT, PT, SE ; However, CZ, DE, ES, IT, LT and PT replied to the questions on the practical implementation of the Directive circulated in advance of the meeting of the National Rapporteurs or Equivalent Mechanisms (NREMs) in December 2016. DK, IE and UK are not bound by the Directive.

<sup>200</sup> For instance CY introduced a definition and scope of residence permits for victims of trafficking.

<sup>201</sup> LU clarified the fact that victims have the right of a reflection period during which he/she is not obliged to cooperate with the Police; FI added the explicit prohibition for prosecutors and police to get in touch or seek information during the reflection period, unless limited exceptions; EE enacted the prohibition of expulsion and CY extended it even before the reflection period from the moment any service concerned identifies or is informed in any way regarding the likelihood of the said person being a victim.

<sup>202</sup> FI for instance designated a Reception Centre that can decide on granting / continuing / suspending a reflection period before the police or border authority.

<sup>203</sup> For instance, residence permits have now a duration of 6 to 12 months in EE.

<sup>204</sup> CY, HU, PL.

<sup>205</sup> HU.

<sup>206</sup> SI has introduced the obligation for the police to make all the necessary arrangements to contact the family as quickly as possible; PL has introduced the possibility to grant a temporary residence permit to a minor independently of his/her cooperation with the competent authority; the new SOPs of the Croatian Ministry of Demography, Family, Youth and Social Policy concerning Victims of Human Trafficking and adopted in 2017 modify the general framework of protection of victims, including minors.

<sup>207</sup> In BE, CY, EE, or LV for instance.

<sup>208</sup> PL has added the attempt or actual irregular crossing of the border while in possession of a residence permit as a new ground for termination; RO seems to have suppressed the possible inclusion of victims with a residence permit in witness protection programmes as well as the explicit possibility to extend the duration of the permit.

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